

PAROLE HANDBOOK



A GUIDE TO THE
PAROLE CONSIDERATION
PROCESS FOR PEOPLE IN
GEORGIA PRISONS

Second Edition

Published by

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ABOUT THIS HANDBOOK

This handbook was produced by the Southern Center for Human Rights (SCHR), a non-profit law office in Atlanta, Georgia. This is the Second Edition of the Parole Handbook. It replaces the edition published in 2004.

SCHR is not affiliated with the Georgia State Board of Pardons and Paroles, the Georgia Department of Corrections, or any other state or governmental agency. This handbook is not an official document written or published by the Georgia State Board of Pardons and Paroles. For information from the Parole Board on the parole consideration process or a specific person's parole eligibility, contact the Parole Board at:

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SCHR welcomes any corrections or comments on the contents of this handbook. Please direct them to: Southern Center for Human Rights, 83 Poplar Street, N.W., Atlanta, GA 30303.

PAROLE TRENDS IN 2007

- 11,524 people were released on parole in Georgia.
- 960 individuals on average were released by the Board each month.
- 101 individuals serving life sentences were released on parole. On average, they served 22 years. This is the greatest amount of time served since statistics were kept (1973).
- People who were granted parole served an average of 68.02% of their sentence. But paroled sex offenders served 95.5% of their sentences and people convicted of "violent" offenses served 85.3%.

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PAROLE AND THE LEGAL RIGHTS OF PEOPLE IN PRISON

LEGAL RIGHTS

- **People in prison DO NOT have a legal right to parole.**
People in prison who are parole eligible are guaranteed the right to be *considered* for parole, but, no one is guaranteed to be granted parole.
- **People in prison CANNOT appear before the Parole Board.**
In Georgia, the Parole Board does not hold hearings before making parole decisions. Thus, people in prison are not allowed to go before the Board to argue their case. The members of the Parole Board review each parole file individually, then the member casts his or her vote to grant or deny parole. The Board does not meet as a group to make parole decisions.

The Board does hold hearings when deciding whether to change a death sentence to life in prison. In these instances, the person's lawyer is allowed to attend the hearing. The person facing execution is NOT allowed to appear before the Board.
- **People in prison DO NOT have a legal right to meet or speak with members of the Parole Board.**
Sometimes, but not often, the Parole Board may have a prisoner appear before them to examine him or her personally. O.C.G.A. § 42-9-43(b). However, the law does not require the members to speak with people in prison.
- **People in prison are NOT entitled to an explanation about the Parole Board's decision.**
The Parole Board does not have to explain its decision.
- **People in prison DO NOT have a legal right to have their parole decision reviewed.**
Prisoners can ask the Board to reconsider its decision, but the Board is not legally obligated to review the decision. The Board can ignore the request for reconsideration and does not have to explain why the Board rejected the request.
- **People in prison DO NOT have a legal right to access their parole file.**
Every person considered for parole has a parole file. The parole files are sealed. Georgia law classifies these files as a "state secret." O.C.G.A. § 42-9-53. The Board has complete control over all files and determines who sees the "confidential" materials contained in the files. Thus, people in prison do not have a legal right to see what is in their file.

Two types of materials in the parole file are *not* considered secret:

1. Materials that were already public records when the Parole Board received the materials, such as court records.
2. Materials sent to the Parole Board in support of a request for parole.

The Power to release information in the file.

The Chair of the Parole Board has the authority to release information that he or she feels is necessary for the public good. The Rules of the Georgia State Board of Pardons and Paroles say that the Chair can release any information necessary to "clarify misleading or erroneous allegations when deemed in the best interest of the public and the parole system. Ga. Comp. R. & Reg. § 475-3-.09.

The votes of individual Board members can only be made public if all five members agree to release the information. O.C.G.A. § 42-9-53; Ga. Comp. R. & Reg. § 475-3-09 (3). If not, people in prison do not have a legal right to see which way each Board member voted. Only the Governor and the Attorney General have the right to see the votes—everything else in the parole file is off limits though, unless the Governor or the Attorney General receives special permission from the Board.

PERSONS NOT ELIGIBLE FOR PAROLE

The following people are not eligible for parole:

- **People sentenced to a term of years for a “serious violent felony.”**
 - The following crimes are serious violent felonies: murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, and aggravated sexual battery. O.C.G.A. § 17-10-6.1(c)(3). People sentenced to a term of years for a serious violent felony will have to spend every day of their sentence behind bars. They are not eligible for parole. O.C.G.A. § 17-10-6.1(c)(3). Upon a second conviction for a “serious violent felony,” the person must be sentenced to life without parole. O.C.G.A. § 17-10-7(b)(2).
- **People convicted of their fourth felony.**
 - People convicted of four felonies are not eligible for parole. O.C.G.A. § 17-10-7(c).
- **People sentenced to life without parole.**

There is one exception to this rule:

- **Age Exception**

The Georgia Constitution grants the Parole Board the authority to parole any person who is 62 years of age or older, even if a statute explicitly prohibits release. Ga. Const. art. IV, § 2, ¶ 2. Since the Constitution trumps state statutes, the Board has the authority to grant parole regardless of state statutes that may preclude release. However, these persons have no *right* to parole consideration, and the Board has never exercised this Constitutional power.

PERSONS ELIGIBLE FOR PAROLE

- **Misdemeanor sentence:** A person serving a misdemeanor sentence is eligible for parole consideration after the expiration of six months of her sentence, or one-third of the time of the sentence, whichever is greater. O.C.G.A. § 42-9-45(b). Note: Except in limited circumstances, the Department of Corrections may not confine misdemeanant offenders. O.C.G.A. § 17-10-3(f).
- **Felony sentence:** As a general rule, a person serving a felony sentence is eligible for parole consideration after the expiration of 9 months of his sentence or 1/3 of the time of the sentence, whichever is greater. There are certain exceptions:
 - **Exception #1:** The following people are not eligible for parole: (a) people convicted of a “serious violent felony;” and (b) people serving prison sentences for a fourth (or fifth, sixth, etc.) felony.
 - **Exception # 2:** People serving sentences aggregating 21 years or more shall become eligible for parole consideration upon completion of 7 years of the sentence. O.C.G.A. § 42-9-45(b).
 - **Exception #3:** People serving a sentence for one of the following crimes will not be released

on parole until the person has served “on good behavior” 7 years in prison or one-third of the prison term imposed by the court, whichever occurs first:

- Voluntary manslaughter, statutory rape, incest, cruelty to children, arson in the first degree, homicide by vehicle while under the influence of alcohol or as a habitual traffic violator, aggravated battery, aggravated assault, trafficking in drugs, and violations of Chapter 14 of Title 16, the Georgia Racketeer Influenced and Corrupt Organizations Act. O.C.G.A. § 42-9-45(f).
- **Exception # 4:** For persons serving a life sentence, please refer to the chapter on life sentences.

CREDIT FOR TIME SERVED

Persons convicted of a crime in Georgia must be given full credit for each day spent in confinement awaiting trial. The credit is applied toward the convicted person’s sentence. This rule applies only to persons who would not be confined but for the charges which give rise to the sentence for which credit is sought. Here is the text of the statute:

O.C.G.A. § 17-10-11: Credit for time spent awaiting trial or resulting from court order applied to sentence and parole.

(a) Each person convicted of a crime in this state shall be given full credit for each day spent in confinement awaiting trial and for each day spent in confinement, in connection with and resulting from a court order entered in the criminal proceedings for which sentence was imposed, in any institution or facility for treatment or examination of a physical or mental disability. The credit or credits shall be applied toward the convicted person’s sentence and shall also be considered by parole authorities in determining the eligibility of the person for parole.

(b) This Code section applies to sentences for all crimes, whether classified as violations, misdemeanors, or felonies, and to all courts having criminal jurisdiction located within the boundaries of this state, except juvenile courts.

THE PAROLE CONSIDERATION PROCESS FOR PEOPLE SERVING LIFE SENTENCES

PAROLE CONSIDERATION FOR PEOPLE SERVING LIFE SENTENCES

▪ **There are Two Types of Life Sentences:**

1. The first type of life sentence is **life with the possibility of parole**. The number of years a person serving a life sentence must stay in prison before being considered for parole varies depending on the date of the crime.
 - If the crime was committed *before January 1, 1995*, the person may be considered for parole after serving 7 years.
 - If the crime was committed *on or after January 1, 1995*, the person may be considered for parole after serving 14 years.
 - EXCEPT . . . If a person receives a life sentence for a serious violent felony committed *on or after July 1, 2006*, the person may be considered for parole after serving 30 years. O.C.G.A. § 17-10-6.1(c) (1).

Individuals serving life with the possibility of parole have a legal right to be *considered* for parole, but are NOT guaranteed to be *granted* parole.

2. The second type of life sentence is **life without parole** (also known as “LWOP”). A person serving this sentence will never be considered for parole and will have to spend the rest of his or her life incarcerated.

▪ **Parole Consideration Process**

The Parole Board uses a different parole consideration process for individuals serving life sentences. Georgia law does not allow the Board to use the Grid System for people serving life sentences due to the seriousness of the crimes committed. O.C.G.A. § 42-9-40(a); see also Chapter Four: The Hearing Examiner and the Grid System for a discussion of the Grid System. Although there are no written parole guidelines for considering people serving life sentences, the Board does consider two key factors when evaluating lifers for parole: (1) the seriousness of the crime and (2) the impact that the crime had on the victim and the community. Factors such as the person’s disciplinary record in prison are important, but not as important to the Board as when considering individuals who are not serving life sentences.

The Step-By-Step Process

Step 1	The Sentencing Packet
Step 2	The Pre-Parole Investigation
Step 3	Parole File Prepared
Step 4	Parole Board Members Vote Based on the seriousness of the crime and impact of the crime on the victim/community
Step 5	Parole Board Makes Its Decision
Step 6	Notice of Tentative Action
Step 7	Appeal Decision
Step 8	Parole Review

- **The Reconsideration Date (also known as the “Set Off” Date)**

Many people serving life sentences will not be granted parole at their first parole eligibility date. The reconsideration date is the date that the Parole Board will reconsider a person for parole, after the person has been denied parole. People who are serving life sentences and have been denied parole are guaranteed to be reconsidered for parole within 8 years of the date that parole was denied. Ga. Comp. R. & Reg. § 475-3-.05(2). The Board is permitted to set the reconsideration date off for a maximum of 8 years when it is not reasonably expected for parole to be granted during the intervening years.

The reconsideration date is included in the notice of tentative action. If no reconsideration date is provided in the notice of tentative action, the person will be reviewed automatically within the next 8 years.

THE SENTENCING PACKET AND THE PRE-PAROLE INVESTIGATION

The Step-by-Step Process

Step 1	The Sentencing Packet
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Step 4	Parole Board Members Vote Based on the Grid System
Step 5	Parole Board Makes Its Decision
Step 6	Notice of Tentative Action
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STEP ONE: THE SENTENCING PACKET

The parole consideration process in Georgia begins as soon as an individual is sentenced. After the person is convicted and sentenced, the Clerk of Court sends the Georgia Department of Corrections (GDC) a sentencing sheet. The sentencing sheet contains the crime committed and the person's sentence. The GDC uses the sentencing sheet to determine the following:

- **The Person's Maximum Term of Confinement**

The maximum term of confinement is the length of the sentence imposed by the judge. For example, if a person was sentenced to 20 years in prison, the maximum term of confinement is 20 years.

- **The Person's Maximum Release Date**

The maximum release date, also known as the "max-out date", is the date when the sentence given by the judge will be completely served. For instance, if a person was sentenced to 20 years in prison on August 1, 2008, the maximum release date will be August 1, 2028.

- **The Person's Parole Eligibility Date**

The GDC makes a sentencing packet that contains all of the above information. The GDC sends this packet to the Parole Board. The sentencing packet becomes part of the person's parole file.

STEP TWO: THE PRE-PAROLE INVESTIGATION

The pre-parole investigation begins when an individual is transferred to a GDC Diagnostic Prison. The Parole Board uses information gathered during the pre-parole investigation to determine whether to grant or deny parole. The pre-parole investigation has three parts: the Personal History Statement, the Social Investigation, and the Legal Investigation.

- **The Personal History Statement**

At the Prison Diagnostic Center, a parole investigator will interview the prisoner. The parole investigator then fills out a Personal History Statement Questionnaire, which will be placed into the person's parole file.

The Personal History Statement Questionnaire includes information about the person's family, education, job history, criminal record, health, and any other information that the person deems important in his or her life. The person also has an opportunity to tell his or her side of the story about the crime he or she was convicted of, any plea taken, or the way the trial was handled.

- **The Social Investigation**

During the social investigation, the parole officer or investigator verifies the information gathered in the Personal History Statement to make sure the information is accurate. Sometimes, the parole officer or investigator will visit the person's family or other individuals from the community. The officer or investigator may add information left out of the Personal History Statement to update the person's parole file.

- **The Legal Investigation**

During the legal investigation, a parole officer gathers all court records pertaining to the prisoner, including prior convictions, arrests, and other case-related materials required by law. For certain violent crimes, the parole officer or investigator has the option of contacting the victim or victim's family. During these conversations, the parole officer/investigator is looking for information about how the crime has continued to affect the victim or the victim's family to prepare the legal investigation report.

THE HEARING EXAMINER AND THE GRID SYSTEM

STEP THREE: THE HEARING EXAMINER PREPARES THE PAROLE FILE

Once the pre-parole investigation is finished, a hearing examiner will verify that all the information required by law has been gathered and placed into the person's parole file. The hearing examiner then will write a short summary discussing the contents of the parole file. Ultimately, the Parole Board will use the hearing examiner's summary to make its parole decision.

■ **The Duties of the Hearing Examiner**

Hearing examiners have several responsibilities. They prepare and maintain parole files. They prepare a summary that directs the Board members to key information contained in the file. Hearing examiners also meet with members of the public who come to ask questions about a person's parole case or come to check someone's parole status. Survivors of crimes are permitted to speak with hearing examiners at any time.

THE PAROLE DECISIONS GUIDELINES GRID SYSTEM

The Parole Board must have guidelines to determine whether individuals can be safely released on parole. O.C.G.A. § 42-9-40. The Board is required by law to make parole decisions based on the risk a person may pose to public safety if he or she were released on parole. To determine that risk, the Parole Board developed the Parole Decisions Guidelines Grid System, also called the Grid System. The purpose of the Grid System is:

- To decide whether releasing a person from prison would pose a risk to public safety;
- To decide whether a person is likely to succeed on parole;
- To decide how long a person should serve behind bars until that person is no longer a threat to the public;
- To make parole decisions consistent—decisions should be similar for all individuals with the same or a similar set of circumstances; and
- To explain the Board's decision-making process.

The Grid System has three parts: (1) the risk to re-offend score, (2) the crime severity level, and (3) the time to serve grid, also known as the grid recommendation.

■ **The Risk to Re-Offend Score**

The risk to re-offend score predicts whether a person is a risk to public safety and whether the person will succeed on parole. The hearing examiner uses the information from the pre-parole investigation to determine the risk to re-offend score. The score is calculated by considering the person's most recent prison conviction offense, the number of felony convictions, the number of prior prison incarcerations, the person's age when admitted into prison, any history of drug or alcohol abuse, and the person's employment history before incarceration. Ga. Comp. R. & Reg. § 475-3-.05(8); see also Appendix B.

- **The Crime Severity Level**

The hearing examiner also determines the crime severity level. The crime severity level is a number between I and VIII which indicates the seriousness of the crime committed. The higher the number, the more serious the crime. See Appendix C for a list of crimes contained in each level.

- **The Time to Serve GRID (Grid Recommendation)**

As shown in the chart below, the risk to re-offend score and the crime severity level are used to determine the grid recommendation. The grid will list both the number of months recommended for the person to serve and the recommended percentage of the sentence that the person should serve. For example, if a person has a crime severity level of III and a risk to re-offend score of 3, that person will serve between 22-28 months. The grid recommendation is based on how likely a person is to succeed on parole (Risk to Re-offend Score) and how serious the crime is (Crime Severity Level).

PAROLE DECISION GUIDELINES TIME TO SERVE GRID

Risk To Re-Offend	Low (-5 to +2)			Medium (3-6)			High (7+)			Risk
CSL	Low	Mid	High	Low	Mid	High	Low	Mid	High	CSL
I	15	17	19	17	20	22	20	22	26	I
II	18	20	22	20	22	24	24	26	28	II
III	20	22	24	22	24	28	26	28	32	III
IV	22	24	26	24	28	34	28	32	38	IV
V	30	34	40	34	42	52	40	50	60	V
VI	36	40	52	40	50	60	52	65	78	VI
VII	40	44	60	48	60	78	60	76	102	VII
VIII	65% of sentence			75% of sentence			90% of sentence			VIII

This Grid was adopted by the Parole Board in 2007 and is effective for cases considered on or after January 1, 2008.

THE PAROLE FILE

When the parole file reaches the Parole Board, it usually contains the following materials:

- **The Sentencing Packet from the Georgia Department of Corrections.**

The packet includes the person’s sentence and parole eligibility.

- **The Corrections Diagnostic Packet**

This packet includes all test records and any other documents or information gathered while the person was in the Diagnostic Prison.

- **The Personal History Statement Form from the Pre-Parole Investigation**

The Personal History Statement is a statement taken by a parole investigator at the Diagnostic Prison that contains the person’s views on his or her life, family, and crime.

- **The Social Investigation Report and the Legal Investigation Report**

Both documents are made after the pre-parole investigation. They contain information about the person's family, employment history, criminal background, and crime details.

- **The Risk to Re-Offend Score, the Crime Severity Level, and the Grid Recommendation**

These items only apply to individuals who are not serving life sentences. Individuals who are serving life sentences are NOT evaluated under the Grid System.

- **The Hearing Examiner's Summary**

The hearing examiner's summary is a summary of the contents of a person's parole file.

- **Prison Disciplinary Reports (DR)**

If a person receives a disciplinary report for misconduct in prison, the Parole Board is advised. Disciplinary reports are added to a person's parole file as soon as the person is found guilty of the offense.

- **Any Relevant Correspondence**

Correspondence from the prisoner, family members, or the victim that is helpful may be made part of the parole file.

- **Statements**

Statements by the judge, the district attorney, witnesses, police officers or detectives, or victims and community members may be made part of the parole file.

- **Georgia Department of Corrections (GDC) Programs**

The parole file includes a list of all programs that the person completed while in prison. If the person received any training, education or certificates that were not given by the GDC, the person should send proof of those activities to the Parole Board.

THE HEARING EXAMINER'S SUMMARY

Hearing examiners are each given cases to manage from beginning to end. The examiners write summaries of the parole files' contents. For people serving life sentences, the hearing examiner's summary will focus on the crime details and the impact of the crime on the victim or the community. For people not serving life sentences, the hearing examiner will use the Grid System and will include the grid recommendation in the summary.

In making its decision, the Parole Board relies heavily on the hearing examiner's summary. The Parole Board has to make decisions on thousands of parole cases every year. The Board does not have time to look through every individual parole file. The five-member Parole Board was formed a long time ago, when the Georgia prison system was small enough to handle its cases with more personal attention. But now, the Board depends on the hearing examiner's summary to expedite the process.

The hearing examiner has a major impact on the parole consideration process. The way a hearing examiner presents a person in their summary may have a profound impact on whether parole is granted or denied.

The Hearing Examiner's Summary Includes:

- **A Summary of Relevant Correspondence**

The Parole Board defines “relevant correspondence” as any correspondence that includes information the Board does not already possess and any correspondence that is helpful for the Board’s decision-making process.

- **Materials from the Pre-Parole Investigation**

The hearing examiner will compile a summary including information from the Personal History Statement, the Social Investigation, and the Legal Investigation Report. The hearing examiner will note the person’s criminal history in Georgia, as well as his or her criminal record in other jurisdictions. The hearing examiner may also draw the Board’s attention to any statements from the victim, the judge, the prosecutor, or police officers.

- **The Parole Review Summary from the Georgia Department of Corrections**

The parole review summary includes all programs the person has completed while in prison and may include statements from the warden, counselor, or other prison staff. The summary may also discuss the person’s behavior and attitude while in prison, mental health and physical condition, and work performance while incarcerated.

- **Work Materials from the Grid System (for Individuals Not Serving Life Sentences)**

The hearing examiner will include the Risk to Re-Offend Score Sheet, the Crime Severity Level and Grid Sheet, and the Recommended Months to Serve.

- **Crime Details that the Parole Board May Consider Important**

The hearing examiner may include details of the crime, aggravating circumstances, and a description of how the crime affected the victim or the community. The hearing examiner may also include information about the relationship between the person and the victim, the age of the victim, and the value of any stolen or destroyed property.

The hearing examiner may also highlight mitigating circumstances for the Parole Board. Mitigating circumstances may include details about the person or the crime that suggest the punishment should not be as severe as in other cases.

THE PAROLE BOARD'S DECISION-MAKING PROCESS

STEP FOUR: THE PAROLE BOARD MEMBERS VOTE

The Parole Board does not meet as a group to review parole files. The Board does NOT hold hearings. Rather, each Board member votes independently to grant or deny parole. The parole file is sent to each member's office, one at a time. After reviewing the file, each member marks his or her decision on a ballot in the parole file. Three out of five Board members must vote the same way to make a parole decision. O.C.G.A. § 42-9-42. If the first three members make the same decision, the file does not go to the other two members.

INFORMATION LIKELY TO INFLUENCE THE PAROLE BOARD'S DECISION

- **Statements from the Victim and Community Members**

Statements from victims and other community members are very important to the Parole Board. As such, during the pre-parole investigation, victims have an opportunity to speak with parole investigators about the crime and the continuing impact the crime has had.

Georgia law grants all victims the right to submit victim impact statements to the Parole Board for consideration during the parole process. O.C.G.A. § 17-10-1.1(f). These statements are placed in the prisoner's parole file. The victim impact statement gives the victim the opportunity to tell the Board how the crime has affected his or her life and family. Additionally, family members may submit a victim impact statement on behalf of the victim if the victim is dead or unable to do so. O.C.G.A. § 17-10-1.1.

- **Statements from the Judge**

Any statement from the judge stating that parole should be granted is compelling. It is also compelling for the judge to state that he or she would not have given the sentence if he or she had known that the Board was going to deny parole.

- **Statements from the Prosecutor**

Any statement from the prosecutor stating that parole should be granted or that the prosecutor does not oppose parole is compelling information that is likely to influence the Parole Board's decision.

- **Strong, obvious, and completely new Proof of Innocence**

The Parole Board is NOT swayed by "gut feelings" or mere protestations of innocence. The Board will likely disregard correspondence stating that the prisoner is not the type of person capable of committing the crime.

- **Disciplinary Records While in Prison**

A person's prison disciplinary record, whether good or bad, may affect the person's chance of parole.

INFORMATION NOT LIKELY TO INFLUENCE THE PAROLE BOARD'S DECISION

- **Witness and Victim Recantations**

The Parole Board also is not swayed by witnesses who recant their testimony. The Board believes that witnesses take back their testimony for many reasons other than a person's innocence. Likewise, a victim's statement that he or she falsely accused the person is unlikely to influence the Parole Board's decision.

- **Proof Previously Presented to the Judge or Jury**

Evidence that has already been presented to the judge or jury is unlikely to influence the Parole Board's decision. The Board will not make or change its decision based on evidence that did not convince the judge or jury.

- **Letters and Other Documents about the Prisoner's Family's Hardship**

The Parole Board generally does not find statements about the prisoner's family's hardship to be compelling. This is because the Board bases its parole decisions on public safety. Since the family's hardship does not reflect the person's likelihood of success on parole or the risk that the person may pose to public safety, the Board is unlikely to be influenced by the family.

- **Statements from the Prisoner's Family, Pastor, or Other Supporters**

Statements about the person's good character do not tend to influence the Parole Board's decision. Families often write that their loved ones have made a once-in-a-lifetime mistake that was out of character, or that their loved ones are good people deep down inside. These character statements do not carry as much weight as the crime details or the victim impact statements. The Parole Board believes that family members and other supporters may not have the most realistic view of the person.

- **Claims of Injustice**

Claims of injustice in the person's criminal case are not usually compelling. The Parole Board views these claims as irrelevant to its determination of the person's risk to public safety. The Parole Board may view a claim of injustice as an attempt to escape responsibility.

- **Claims that the Person was Promised Parole**

The Parole Board does not find the following types of statements important: (1) that a judge or prosecutor promised the person parole, (2) that the person took a plea of guilty because the defense attorney promised the person that he or she would get parole, (3) that the sentence was made or the plea was taken with the belief that parole would be granted at a certain time, or (4) that a different sentence or plea agreement would have been made if the attorneys and the person had known the decision that the Parole Board was going to make.

OTHER CONSIDERATIONS SPECIFIED BY LAW

Georgia law instructs the Parole Board to consider a number of factors before releasing a person on parole. O.C.G.A. § 42-9-42. For instance, the Board cannot release any person that the Board believes

- Will not be law-abiding;
- Will hurt himself or herself or anyone else while on parole;
- Will not be able to find employment;
- Will not be able financially to support himself or herself; or
- Will have to be supported by the state.

Although the Board generally is not allowed to release individuals who will "become a public charge," the Board may grant parole to any aged or disabled person despite potential costs to the state. O.C.G.A. § 42-9-42(c).

The law also advises the Parole Board to consider the following items:

- Whether the person displayed good conduct while in prison;
- Whether the person had a good record on work detail and other aspects of prison life; and
- Whether the person has achieved at least fifth-grade ranking on standardized reading tests. O.C.G.A. § 42-9-42(c).

A GOOD RESIDENCE PLAN: KEY TO GETTING PAROLE

A residence plan is a document containing information about where a person plans to live and who the person intends to live with if granted parole. The parole investigator completes the residence plan during the pre-parole investigation when the person is at the Diagnostic Prison. All residence plans are placed in the person's parole file. If the person has not made living arrangements, the parole investigator cannot fill out a residence plan.

Having a good residence plan does NOT guarantee parole. However, problems with a residence plan will provide the Parole Board with good grounds to deny parole. Common problems with residence plans include:

- **The Residence Plan is Missing Information**

It is very important to fill out the residence plan in its entirety. Make sure to include the address of the location and the person with whom the person will be staying. Do NOT leave out information on purpose in order to make the plan appear more attractive to the Parole Board. A parole officer will be sent to check every person's residence plan. If the parole officer discovers that any of the information is not accurate, the Parole Board may deny parole.

- **The Residence Plan was NOT Updated**

The Parole Board may deny parole on the basis that changes were not made to the residence plan. For instance, if the address or the telephone number at the location where the person intends to stay changes, the person must report the new information to the Parole Board as soon as the change occurs, so that the Board can update the residence plan.

Prisoners should also advise the Parole Board if any new individuals move into the home designated on the residence plan or if any newborn child now lives in the home. The plan must include every single person who will be living in the home with the person.

Residence plans are made when individuals first enter jail or prison. The Parole Board may not consider the person for parole until years after the date that the residence plan was first made. Often, there are many changes that take place by the time the person is up for parole review. Thus, the prisoner must continuously update the information in the residence plan to increase his or her chances of parole.

- **Changes to the Residence Plan Came Too Late**

Before any person is released on parole, the Parole Board must send a parole officer out to check the residence plan. If the prisoner updates the residence plan too late, the parole officer may not have time to go out and check the plan before the Parole Board makes its decision. Changes ideally should be given to the Parole Board *several months* before the person is considered for parole. This gives the Parole Board ample time to send a parole officer to check the plan. The Board will NOT grant parole if the person's residence plan has not been inspected.

- **The Location Designated in the Residence Plan is Unsuitable**

The Parole Board is unlikely to grant parole if the residence plan has the person living in an area likely to increase the person's chances of re-offending. For example, the Parole Board would not favor a residence plan that has the person moving to an area known for drug activity, an area located near the victim, or an area located where the crime was committed.

In addition, the Parole Board will not grant parole if the residence plan lists a location where the person is not allowed to live or is not welcomed to live. For instance, people with certain felony convictions are not allowed to live in public housing. In addition, many landlords will not rent property to individuals who have been in prison, even if permitted by law. The Board also finds that sometimes family members and friends do not want the person to stay with them. The residence plan must place the person in a safe, legal, and welcoming environment.

TIPS FOR A GOOD RESIDENCE PLAN

Residence plans favored by the Parole Board have the following qualities:

- **Residence Plan Reveals that Person Will Get Necessary Services**

The residence plan should provide the person with access to the kind of services he or she will need. For example, if a person's crime involved drugs or alcohol, a good residence plan would have the person living near a treatment facility for substance abuse. Similarly, a good residence plan may have a person with mental illness living near a mental health treatment center.

- **Location Provides Person with Suitable Transportation**

If the person does not have a car, it is important that public transportation is readily available. In these instances, a good residence plan would have the person living near a bus stop or close to the train, so that the person can get to work and his or her parole appointments.

- **The Residence Plan Has The Person Living in a Stable Environment**

The Parole Board prefers the person to be free from bad influences, so the person can succeed on parole. If the person's crime involved drugs or alcohol, the person should not plan to live with relatives who have drug or alcohol problems. If the person is serving time for a sex offense, the person should not plan to live in a home with children or a home located near schools, childcare centers, playgrounds, or any other areas where minors congregate. The person should try to live with people who are leading healthy and productive lives, so that he or she can receive the necessary emotional support and encouragement.

- **The Residence Plan does not Include Public Housing**

The Public Housing Authority (“PHA”) has broad discretion to grant or deny applicants public housing. PHA may consider any “criminal acts which would adversely affect the health, safety or welfare of other tenants” when evaluating an applicant for public housing. 24 C.F.R. § 960.203. Specifically, the housing authority is required to deny admission to any person convicted of methamphetamine production and manufacture on the premises of federally assisted housing, and any person subject to lifetime registration on the sex offender registry. 24 C.F.R. § 960.204.

- **The Person should be on the Lease of the Rented House or Apartment, If Possible**

The Parole Board likes residence plans with the prisoner’s name included on the lease. This is because landlords have the right not to rent to parolees and not to allow them to live on the property. It is a good idea to ask the landlord ahead of time whether the person can stay at the location and whether the person’s name may be added to the lease. A parole officer must call the landlord to make sure that the person is allowed to stay at the location in order for parole to be granted.

- **If the Person is on the Sex Offender Registry, His/Her Home Plan Complies with the Law**

A person who is required to register as a sex offender cannot live within 1,000 feet of any child care facility, church, school, or area where minors congregate. O.C.G.A. § 42-1-15. “Areas where minors congregate” include: parks, recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, and public or community swimming pools (including motel pools and pools in apartment complexes). O.C.G.A. § 42-1-12. The school bus stop provision is not being enforced anywhere in Georgia at this time. Also, as of July 1, 2008, there is an exception to the residence restrictions for people who owned their homes before July 1, 2006.¹

A GOOD BEHAVIOR RECORD: KEY TO GETTING PAROLE

Individuals with a good behavior record in prison have an advantage over individuals with disciplinary problems. The Parole Board views disciplinary reports as an indication that the person may not do well on parole. Although a good behavior record increases a person’s chances of getting parole, it does NOT guarantee parole.

PERSONAL RESPONSIBILITY AND GROWTH: KEY TO GETTING PAROLE

The Parole Board does not look favorably on individuals who do not take responsibility for their crimes. The Board views people who appear to be blaming others for their crime as bad parole risks because the individuals have not accepted responsibility for their wrongdoing.

The Parole Board is more favorable to people who appear to have changed for the better while in prison. Evidence of personal growth is more compelling when it comes from the prisoner, rather than family members, friends, and supporters. The Parole Board looks for signs that the person has worked hard to become a better person during his or her prison sentence.

¹ The Southern Center for Human Rights represents a class of everyone on the registry in a challenge to Georgia’s 1,000-foot sex offender residence restrictions. *See Whitaker v. Perdue*, Civil Action No. 4:06-cv-140-CC (N.D. Ga. 2006). The plaintiff class in the *Whitaker* case has been defined as “all persons who are registered, are required to register, or in the future will be required to register as sex offenders pursuant to § 42-1-12.” **If you are on the registry, you are automatically a part of the plaintiff class. You do not need to request to be included in the lawsuit.** In the lawsuit, the plaintiffs claim that Georgia’s 1,000-foot restrictions violate many provisions of the United States Constitution, including: the Ex Post Facto Clause, the Due Process Clause, and the Free Exercise Clause. The case is still pending.

Factors that Indicate a Person’s Failure to Take Personal Responsibility:

- Claims of innocence without conclusive proof;
- Claims that the person should never have been imprisoned;
- Claims that law enforcement officers, investigators, prosecutors, or judges handling the case had a grudge against the person or are corrupt;
- Claims that witnesses lied;
- Claims that jury members lied, concealed information, failed to disclose their relationship with individuals involved in the case, or did not like the person;
- Claims that the prosecutor or judge gave the person an unfair sentence to set an example;
- Claims that the prosecutor or judge knew the victim, the victim’s family, the accused or his or her family;
- Claims that the person was convicted due to widespread corruption in the county or state; or
- Claims that other people were punished less severely for the same crime.

Signs of Personal Growth:

- The person takes responsibility for the crime and his or her incarceration;
- The person is emotionally stable and does not have outbursts or other behavioral problems that reveal a lack of control over his or her emotions;
- The person has been helpful and supportive of other people in prison; and
- The person has set future goals and has a good plan for success once released from prison.

STEP FIVE: THE PAROLE BOARD MAKES ITS DECISION

The Parole Board makes one of three decisions when considering a person for parole:

- To Set a Tentative Parole Month;
- To Set a Reconsideration Date; or
- To Set No Reconsideration Date and No Tentative Parole Month

Thus, the parole decision includes more than a mere “yes” in favor of granting parole or “no” in favor of denying parole.

TENTATIVE PAROLE MONTH

When the Parole Board sets a tentative parole month, the Board is making a decision *possibly* to grant parole. The Board is essentially stating that it may grant the person parole on the date specified if the person no longer poses a risk to public safety by that date. The Parole Board only sets tentative parole months for individuals likely to be successful on parole.

New materials added to the person’s parole file or new disciplinary problems may cause the Board to change its initial decision and decide instead to deny parole. The Parole Board typically begins to examine the new materials in the person’s file a few months before the tentative parole month.

The tentative parole month is NOT a guaranteed release date. Rather, it is the month and the year when the Parole Board will review the person's parole file to make its decision to grant or deny parole. The Parole Board is free to change its decision at any time. Ga. Comp. R. & Reg. § 475-3.04. The Board can also take away the tentative parole month altogether.

The Parole Board is NOT obligated to set a tentative parole month, even if the person has already served the number of months recommended by the grid recommendation. Georgia law requires the Board to depart from the guidelines whenever the Board believes that the person is a greater risk than reflected by the grid recommendation. O.C.G.A §42-9-40.

Departing From The Grid Recommendation

The Parole Board departs from the grid recommendation whenever the Board selects a tentative parole month that is different from the number of months recommended by the Grid System. The Parole Board does NOT have to follow the grid recommendation. The Parole Board is allowed to depart whenever the Board believes that someone is a greater risk to the public than reflected by the recommendation. The Board usually departs when it believes the recommendation does not reflect the seriousness of the crime. Since the top priority of the Parole Board is public safety, the Board is allowed to make any decision necessary to protect the public. Thus, no one is guaranteed parole at the recommended number of months shown on the Grid.

The following factors may cause the Parole Board to depart from the Grid recommendation:

- Impact of the crime on victims and the community
- The age of the victim
- The relationship of the person to the victim
- Weapons used
- The degree of property damage

RECONSIDERATION DATE

If the Parole Board denies parole, it may set a reconsideration date, also known as the "set off" date. When the Board sets a reconsideration date, the Board is denying parole for the present, but agrees to review the file again in the future to reconsider the person for parole. The reconsideration date is the date when the Board will reconsider whether to grant or to deny parole.

- **For People Not Serving Life Sentences:**

People who are considered under the GRID system will be reconsidered at least every five years. Ga. Comp. R. & Reg. § 475-3-.05(6). But, the Parole Board can set the reconsideration date further in the future or decline to set a reconsideration date and require the person to serve his or her entire sentence in prison.

- **For People Serving Life Sentences:**

These individuals are considered for parole when they become parole eligible by law. The Grid System is not used to set a reconsideration date for the Parole Board to review these files.

When the Parole Board reconsiders the person on the reconsideration date, the Board can vote three different ways:

- To Set a Tentative Parole Month;
- To Set a New Reconsideration Date; or
- To Deny Parole for the Rest of the Person's Sentence.

NO RECONSIDERATION DATE

When the Parole Board does not set a reconsideration date or a tentative parole month, the Board is denying parole for the rest of the person's sentence. Although the Board will read the hearing examiner's summary for new materials every eight years, it will not reconsider the person for parole unless significant, new information is provided. The new materials must be dramatic and compelling, such as absolute proof of the person's innocence. Otherwise, the person will spend his or her entire sentence in prison.

It is legal to deny someone parole for his or her entire sentence because no one has a legal right to be granted parole. The law only requires the Board to consider prisoners for parole, not to grant parole. The Parole Board is not lengthening a person's sentence when he or she is denied parole.

NOTICE OF TENTATIVE ACTION

STEP SIX: THE PAROLE BOARD SENDS A NOTICE OF TENTATIVE ACTION

After the Parole Board has made a decision to grant or deny parole, the Board sends the person a notice of tentative action. The notice of tentative action is a letter informing the person of the Parole Board's decision. The notice tells the person whether the Board has set a tentative parole month or a reconsideration date. If the Board has set one of the above dates, the notice also provides the month and year of the tentative parole month or the date of the reconsideration date.

The Parole Board is NOT legally obligated to stick to the decision reflected in the notice of tentative action. The Board is free to change its decision at any time.

For Individuals with Non-Violent Crimes

- Approximately 70% of people in prison receive their notice of tentative action within eight months of entering jail or prison. These are usually for "non-violent" crimes.

For Individuals Not Serving Life Sentences, the Notice of Tentative Action Includes:

- A tentative parole month or a reconsideration date;
If the notice does not include a tentative parole month or a reconsideration date, the Parole Board has decided not to grant parole. The person will have to serve his or her entire sentence.
- The Risk To Re-Offend Sheet showing the number of points given for each social factor;
- The Grid Sheet showing the crime severity level, the risk to re-offend score, and the grid recommendation;
- A short explanation of the parole decision;
This short explanation is the only explanation that the Parole Board will provide to the person in prison. In the explanation, the Board will NOT tell which materials in the parole file most affected its decision, which way each Board member voted, who sent in statements opposing parole, or how the person can improve his or her chances of getting parole. Often, the Board will simply state that a person has been denied parole because his release is "incompatible with the welfare of society." The Board is not legally obligated to provide the reasoning behind its decision.
- Any departure from the grid recommendation.

For Individuals Serving Life Sentences, the Notice of Tentative Action Includes:

- Reconsideration Date;
If the notice does not include a reconsideration date, the Parole Board has decided not to grant parole.
- A brief explanation of the parole decision.
In the explanation, the Board will not tell which materials in the parole file most affected its decision, which way each Board member voted, who sent in statements opposing parole, or how the person can improve his or her chances of getting parole.

No one is allowed to check the materials in the parole files (not even the person's lawyer), even if a suspected error in the file could have made a difference in the parole decision.

APPEALING THE PAROLE DECISION

STEP SEVEN: APPEALS TO PAROLE DECISION

There are two types of parole appeals. The first type allows the prisoner to ask the Board to reconsider its decision based on the merits of the parole case. The second type of appeal – filed only in Grid cases – asks the Board to correct an error in the Grid calculation.

A REQUEST FOR RECONSIDERATION OF THE PAROLE DECISION

A request for reconsideration of the parole decision is an appeal for the Parole Board to review the person's parole file again. Any prisoner can file a request for reconsideration.

To make a request for reconsideration, the person must write a letter to the Parole Board. There is no special form to use for the request. The person may simply write a letter asking the Board to look at the case again and reconsider its decision. There is no deadline by which the reconsideration request must be submitted.

People in prison can request reconsideration on two grounds:

1. To be granted parole when parole was denied, OR
2. To receive an earlier reconsideration date.

The request for reconsideration of the parole decision will NOT be granted unless the person has new and compelling information for the Parole Board.

A REQUEST TO CORRECT AN ERROR IN THE GUIDELINES DECISION

Another type of appeal is the request for reconsideration of the *guidelines* decision. This type of request is an appeal of any decision made using the Grid System. This request does NOT apply to decisions where the Parole Board departed from the grid recommendation. The Parole Board does not view decisions which departed from the grid recommendation as decisions made using the Grid System. These decisions are made by looking at the crime details and the impact of the crime on the victim and the community, instead of using the risk to re-offend score and crime severity level.

The request for reconsideration of guidelines decisions does NOT apply to parole decisions for individuals serving life sentences. These decisions are not made with the Grid System. Thus, this appeal is ONLY for people who are not serving life sentences.

Information to remember about the request for reconsideration of guidelines decisions:

- **Grounds for the Appeal**

There are two grounds for this type of appeal. A person makes this appeal whenever

1. There is an error in the risk to re-offend score, OR
2. There is an error in the crime severity level.

- **The Special Form**

This type of request must be filled out on a special form. The person gets the form from his or her counselor in prison.

- **Getting Help**

The Parole Board encourages all people in prison to get help from the counselors or the warden to fill out the form requesting reconsideration for the guidelines decision. However, the person is not required to have the form signed by a counselor or warden.

- **The Deadline**

The request for reconsideration of the guidelines decision must be sent to the Parole Board within 30 days of the decision.

PAROLE REVIEW

STEP EIGHT: THE PAROLE BOARD CONDUCTS THE PAROLE REVIEW

During the parole review, the Board examines any new information added to the person's parole file after the person was last considered for parole. The parole review is conducted before the tentative parole month and before the scheduled reconsideration date in order to determine whether to grant or deny parole. As a result of the parole review, a person may be denied parole, even if that person received a tentative parole month when the Board first reviewed the person's parole file.

For individuals with tentative parole months, the Board is trying to determine whether the person is still worthy of being released on parole. If not, the Board denies parole. For individuals with reconsideration dates, the Board is deciding whether the person has changed for the better, so that the Board now feels comfortable enough to grant parole. Essentially, the Board has to conclude that the person in prison will no longer pose a risk to public safety.

Parole review takes place automatically. The person in prison does NOT have to fill out any paperwork or make any requests. When the Parole Board begins the parole review process, the Board checks the residence plan to make sure it is accurate and up-to-date. The Board examines new information looking for any materials that show the person to be a risk to public safety. The Board is likely to find the following types of new information compelling:

- Statements from the victim, the victim's family, or community members stating their support or opposition to parole;
- Statements from court officers (the judge, the district attorney, or police officers) supporting or opposing parole;
- Any new prison disciplinary reports.

TIME SCHEDULES FOR PAROLE REVIEW

Parole review takes place at these times:

- **For People With a Tentative Parole Month or Reconsideration Date**
The parole review takes place a few months before the tentative parole month or reconsideration date.
- **For People Serving Life Sentences**
The parole review takes place when the person becomes parole eligible. See Appendix A.
- **For People With No Tentative Parole Month or Reconsideration Date**
The parole review takes place at least once every eight years.

THE PAROLE REVIEW PROCESS

- **The Department of Corrections Prepares a Parole Review Summary**

The parole review summary provides the Board with a summary of the person's behavioral record while incarcerated. The summary also includes all the GDC programs and training sessions that the person completed in prison. Sometimes, the summary has statements from the warden and counselors.

- **Disciplinary Reports are Summarized**

All disciplinary reports are added to the person's parole file.

- **The Hearing Examiner Writes a New Summary**

The new summary contains information about any materials added to the parole file since the person was last reviewed for parole.

- **The Judge and Prosecutor are Informed of the Upcoming Parole Review**

The Parole Board tells the judge and prosecutor who handled the case about the parole review in order to give them an opportunity to voice their support or opposition to parole.

- **The Parole Board Votes and Makes its Decision**

At the end of the parole review, the Board will vote in one of three ways:

1. To grant parole and release the person during the tentative parole month or on the reconsideration date.
2. To deny parole for the moment, but set another tentative parole month or reconsideration date and make a decision to grant or deny parole then.
3. To deny parole altogether and not set another tentative parole month or reconsideration date. If no date is set, the person will be reviewed at least within the next eight years.

THE UPDATED PAROLE FILE

The following materials may be added to the person's parole file before parole review:

- Updates on the person's conduct and behavior, including new disciplinary reports;
- Results from any medical or mental health examinations;
- Results of any standardized reading tests;
- Any educational program completed by the person in prison;
- Any signs of personal growth on behalf of the person in prison;

These signs may include any improvements in the person's behavior toward other individuals (e.g. the person is getting along better with other people in prison, is helpful around the prison, or responds respectfully to authority). The parole officials will also note how the person spent his or her free time.

- The person's prison work record;
- The type of work that the person may be most qualified and most likely to succeed in doing.

PROGRAM REQUIREMENTS FOR PAROLE RELEASE

Georgia law imposes certain rehabilitative programs for particular offenses. O.C.G.A. § 42-9-45. In addition, the Board may require a prisoner to complete programs not required by law as a pre-condition for release. Usually, the Parole Board assigns program requirements whenever the Board believes that the program will help the person to succeed on parole, so that the person will no longer be a risk to society.

The Parole Board will NOT grant parole, if the person has not completed a required program. O.C.G.A. § 42-9-45(i). In fact, the Board will NOT even *consider* a person who has a criminal offense or history indicating alcohol or drug involvement for parole if that individual has not successfully completed an alcohol or drug use program. O.C.G.A. § 42-9-45(h).

State-Imposed Program Requirements

There are two program requirements imposed by Georgia law. O.C.G.A. § 42-9-45. The Parole Board is not allowed to release people who are required to complete these programs until they have finished the programs. The programs must be completed, even if it means waiting many months past the tentative parole month or serving 100% of the person's sentence.

- **Drug and Alcohol-Related Crimes**

Individuals who are incarcerated for drug or alcohol-related crimes or those with a history of drug or alcohol abuse must complete an alcohol or drug-use risk-reduction program before they can be released on parole.

- **Crimes Related to Family Violence**

Individuals who are incarcerated for crimes concerning family violence must complete a Family Violence Counseling Program before being released.

CHECKING PAROLE STATUS

HOW TO CHECK A PERSON'S PAROLE STATUS

The State Board of Pardons and Paroles has an automated phone line which provides the status of a person's parole case and the most recent parole decision for each person in prison. The number is 404-657-9350. In order to get information about a case, the person must have the prisoner's EF number.

VISITOR'S DAY

On Visitor's Day, friends and family members of the person meet with hearing examiners to ask questions about the parole process. Visitor's Day is held once a month in Atlanta, Augusta, Savannah, Macon, and Albany. Hearing examiners will provide the same information no matter which location a person visits. For questions regarding Visitor's Day, call the State Board of Pardons and Paroles Hearing Examiner unit at (404) 656-5712. There may also be information posted online at www.pap.state.ga.us/opencms/opencms/.

During the visits, hearing examiners will answer general questions about the parole process and also questions about a particular person's parole status. If the visitor has new information about the person in prison, the hearing examiner will accept these materials to put into the person's parole file.

Hearing Examiners cannot and will not:

- Provide information about the contents of a parole file;
- Allow a visitor to view a person's parole file;
- Change a parole decision;
- Promise or predict what the Parole Board's decision will be;
- Tell visitors how each member of the Board voted;
- Provide the visitor with more information than is included in the notice of tentative action; or
- Give an explanation about why the Board made a particular decision.

SCHEDULE OF VISITOR'S DAYS THROUGHOUT GEORGIA

Atlanta

Second Tuesday of each month
8:00 a.m. - 4:00 p.m.
Floyd Veterans Memorial Building
2 Martin Luther King Jr. Drive, SE
Suite 458 East Tower
Atlanta, GA 30334

Augusta *

Second Wednesday of each month
1:00 p.m. - 6:00 p.m.
Augusta Parole Office
3132 Wrightsboro Road, Suite A
Augusta, GA 30909
Telephone: (706) 731-7062

Macon *

Third Tuesday of each month
1:00 p.m. - 6:00 p.m.
Macon Parole Center
640 North Ave, Suite 400
Macon, GA 31211
Telephone: (478) 751-6218

Albany *

Third Wednesday of each month
1:00 p.m. - 6:00 p.m.
Albany Parole Office
1301 Evelyn Avenue
Albany, GA 31705
Telephone: (229) 430-4392

Savannah

Fourth Tuesday of each month
1:00 p.m. - 6:00 p.m.
Savannah Parole Center
607 Abercorn Street, Suite A
Savannah, GA 31401
Telephone: (912) 651-2001

NOTE: THIS SCHEDULE IS SUBJECT TO CHANGE

* On November 1, 2008, the State Board of Pardons and Paroles will no longer hold Visitor's Day in its Albany, Augusta and Macon locations. The Board is replacing the Albany and Macon Visitor's Day locations with a new central location in Columbus, Georgia:

Columbus

Third Tuesday of each month
1:00 p.m. - 6:00 p.m.
Columbus Parole Office
114 Enterprise Court
Columbus, GA 31904

MEDICAL REPRIEVES

A medical reprieve is a parole decision that is rarely granted. A person must be very ill to get a medical reprieve. Specifically, the Constitution states that a person is eligible for a medical reprieve if he or she is “an entirely incapacitated person suffering a progressively debilitating terminal illness.” Ga. Const. art. IV, § 2, ¶ 2. When the Parole Board grants a medical reprieve, the person is allowed to leave prison temporarily due to his or her medical needs. The time spent on reprieve does not count as time served. As such, the person is expected to return to prison to continue serving his or her sentence as soon as the medical emergency has been rectified.

No one has a legal right to a medical reprieve. Approval of the medical reprieve by the person’s doctor or the GDC Statewide Medical Director does not ensure a medical reprieve. The Parole Board makes the final decision to grant or deny the reprieve.

REQUIREMENTS FOR A MEDICAL REPRIEVE

The Parole Board rarely grants medical reprieves. They are only given when:

- The person is extremely ill, barely able walk, and is on the verge of dying;
- The person has a terminal illness;
- The person has a serious medical condition that requires more resources than the Georgia Department of Corrections can provide;
- The person is suffering from a serious medical condition that cannot be reversed; and
- For individuals serving a sentence for a serious violent felony (murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, or aggravated sexual battery), medical reprieves are only granted if the person is terminally ill with less than six months to live and is completely incapacitated.

THE MEDICAL REPRIEVE PROCESS

▪ **Step 1: Approval from the Georgia Department of Corrections**

Unlike other parole decisions, the request for a medical reprieve begins with the Georgia Department of Corrections (“GDC”). The GDC must approve the medical reprieve before the request can go to the Parole Board.

▪ **Step 2: Prison Doctor and Counselor Submit Medical Reprieve Request Form**

The prison doctor must agree to submit a request for a medical reprieve. If the prison doctor does not think the person qualifies for a reprieve, he or she is not required to submit the request. Thus, the person will NOT get a medical reprieve.

▪ **Step 3: Warden Makes Recommendation**

Once the warden has received the medical reprieve request, the warden makes his recommendation. The warden has three options: to recommend the medical reprieve, not to recommend the reprieve, or to not make a recommendation at all. The warden then sends the reprieve request to the GDC Director of Inmate Administration.

- **Step 4: GDC Director of Inmate Administration Makes Decision**

The GDC Director of Inmate Administration makes his or her decision to approve or disapprove the medical reprieve request. If he or she approves the request, it is sent to the GDC Statewide Medical Director. If the GDC Director of Inmate Administration rejects the request, the request will not be sent to the Parole Board.

- **Step 5: GDC Statewide Medical Director Makes Decision**

The GDC Statewide Medical Director reviews the medical reprieve request. If the GDC Statewide Medical Director approves the request, it goes to the State Board of Pardons and Paroles. If he or she rejects the request, it does not go to the Parole Board. Thus, the person will NOT receive a medical reprieve.

- **Step 6: The Medical Reprieve Hearing Examiner Prepares Request**

The approved request then goes to the Medical Reprieve Hearing Examiner. The hearing examiner prepares the request for a vote by the Parole Board.

- **Step 7: The Parole Board Votes**

Each Parole Board member votes individually to grant or deny the medical reprieve. If a majority votes in favor of granting the request, the person will receive the medical reprieve. Otherwise, the reprieve is denied.

HELPING A LOVED ONE TO GET A MEDICAL REPRIEVE

- **Contact the Health Services Administrator, Warden, or Superintendent**

If you believe that a person may qualify for a medical reprieve, contact the Health Services Administrator, the warden, or the superintendent of the prison.

- **Plan Ahead**

Think about the special needs that the person will need if granted a medical reprieve, for example, a wheel chair ramp. The Parole Board is unlikely to grant a medical reprieve if the person's needs cannot be accommodated. Be prepared to explain how the family intends to provide for the person's special needs.

- **Work with the Prisoner's Counselor**

Write a letter in support of the person's medical reprieve request and give the letter to the counselor. The counselor will include the letter with the Medical Reprieve Request Form. The letter should include how the family will make sure that the person receives continuous medical care, how the family intends to respond to the person's special needs, and how the family intends to provide assistance to the person.

HIRING AN ATTORNEY OR ADVOCATE

Many people ask whether they should hire an attorney to help them get parole. People disagree about how helpful it can be to hire an attorney. Sometimes, attorneys provide helpful assistance with getting information into the parole file. Other times, the attorney charges a lot of money and is not helpful at all.

The most important thing to remember is that there are NO guarantees. The final decision is up to the Parole Board. Thus, no attorney or advocate can promise that his or her work will result in parole or in an earlier reconsideration date.

CHECKLIST FOR FAMILIES WHO HIRE PAROLE ATTORNEYS OR ADVOCATES

Before giving any attorney or advocate any money, the family should:

Be sure that the lawyer or advocate has the right experience and qualifications.

If possible, get a recommendation from a reliable source. Ask the attorney for references from past clients that can be called. Also, remember that **ONLY** attorneys may be paid to advocate for someone before the Parole Board. O.C.G.A. § 42-9-16; see also Ga. Comp. R. & Reg. § 475-3-.02(3).

Find out how much experience the lawyer or advocate has with the Parole Board.

If the person is a lawyer, call the Georgia Bar to see if there are any complaints against him or her. The numbers are 1-800-334-6865 and 404-537-8700. The website for the Georgia Bar is <http://www.gabar.org/>.

Know exactly how much money the lawyer or advocate will charge and what that money is buying.

The family should confirm the scope of the representation. The following questions may be helpful to ask:

- Will the attorney make an examination or assessment of the case?
- Will the attorney prepare a letter or a report for the parole file?
- Will the attorney send or present the report to the Parole Board?
- Will there be additional costs?
- Will the prisoner or the family receive copies of all work done?

Know exactly what will be included in any report prepared for the Board and how that information should help the person's chance for parole.

APPENDIX A: RISK TO RE-OFFEND WORKSHEET

<u>Risk Factor</u>	<u>Points</u>
<u>Current Prison Conviction Offense(s)* - score all types</u>	
Other Offense (minimum score, if no conviction listed below)	0
Burglary	1
Drug Possession	1
Forgery	2
Obstruction	3
Theft	5
*If multiple convictions for the same offense, score only once per offense type.	
 <u>Number of Felony Convictions Counts (including current prison episode)</u>	
0	0
1-2	1
3	2
4-5	3
6-7	4
8	5
9 or more	6
 <u>Number of Prior Prison Incarceration Episodes</u>	
None	0
1	1
2	3
3	4
4 or more	6
 <u>Age at Prison Admission (current prison episode)</u>	
Up to 20 years	0
over 20 to 40 years	-1
over 40 years	-2
 <u>History of Drug or Alcohol Problem</u>	
No	0
Yes	2
 <u>Employed at Time of Arrest (full- or part-time)</u>	
No	0
Yes	-3

<u>Total Points</u>	<u>Risk Group</u>
Up to 2 points	Low
3-6 points	Medium
7 or more points	High

APPENDIX B: PAROLE GUIDELINES CRIME SEVERITY LEVELS

LEVEL I — 10 to 22 months

Bad Checks - under \$2,000
Burglary - non-dwelling, less than \$300, one count
Credit Card Theft
Criminal Interference with Government Property
Escape Custody - no weapon, aiding escape
Forgery II - possession, 10 or fewer counts or less than \$1,000
Habitual Violator
Possession/passing forged prescriptions - first offense
Possession of tools to commit a crime
Theft - under \$1,000
Theft of Vehicle - not to sell; one count, first offense
VGCSA - possession, single offense

LEVEL II — 12 to 24 months

Bad Checks - \$2,000 or more
Burglary - non-dwelling, \$300 to \$2,000, one count
Credit Card Fraud - 10 or fewer counts or less than \$1,000
Criminal Damage II - \$300 to \$2,000
Forgery I - 10 or fewer counts or less than \$1,000
Possession of Illegal Firearm or Explosives
Possession/Theft - materials to manufacture illegal drugs, first offense
Reckless Conduct by HIV Infected Persons
Theft - \$1,000 to \$4,999
Theft of Vehicle - not for sale, second offense
VGCSA - possession, second offense
VGCSA - sale/intent to sell/distribution, first offense

LEVEL III — 14 to 26 months

Burglary - non-dwelling, 2 to 5 counts, or \$2,001 to \$5,000
Credit Card Fraud - more than 10 counts or \$1,000
Criminal Damage - life in danger or over \$2,000
Destroying or Injuring Police Dog or Horse
Forgery I - over 10 counts or \$1,000 or more
Manufacturing Methamphetamine - first offense
Obstruction of Officers - Felony
Possession/Theft - materials to manufacture illegal drugs, second offense
Terroristic Threats
Theft - \$5,000 to \$10,000
Theft of Vehicle - for sale or 2 to 3 counts without intent to sell or third offense
VGCSA - sale - second offense or third drug possession

LEVEL IV — 16 to 28 months

Arson II - \$2,000
Burglary - non-dwelling, over \$5,000 or 6 or more counts
Homicide by Vehicle - not DUI/HV
Manufacturing Methamphetamine - near a child
Serious Injury by Vehicle
Theft of Vehicle - 4 or more counts or fourth or greater offense
Theft - over \$10,000
VGCSA - sale/distribution/intent to sell
Schedule I or II drugs, second offense

LEVEL V — 34 to 52 months

Aggravated Assault (no injury or weapon)
Arson I
VGCSA - Cocaine or Meth. - 28 to 199 grams*
Identity Fraud
VGCSA - Marijuana - 10 to 1,999 pounds*
Manufacturing Meth. - 2nd offense or child injured
VGCSA - Opiates - 4 to 13 grams*
VGCSA - sale/distribution/intent to sell Schedule I
or II drugs, third offense
VGCSA - Meth. Trafficking - less than 200 grams*

LEVEL VI — 52 to 78 months

Burglary - unoccupied dwelling
VGCSA - Cocaine or Meth. 200 to 399 grams*
VGCSA - Marijuana - 2000 to 9,999 pounds*
VGCSA - Opiates - 14 to 27 grams*

LEVEL VII — 72 to 102 months

Attempted Aggravated Child Molestation
Attempted Armed Robbery
Attempted Kidnapping
Attempted Aggravated Sexual Battery
Attempted Aggravated Sodomy
Pimping or Pandering a child under age 18
Probation Revocation based on Level VIII offense
Probation Revocation based on Serious Violent Felony
RICO Act

LEVEL VIII — 65% to 90% of prison sentence

Aggravated Assault (with injury or weapon)
Aggravated Assault on a Police Officer
Aggravated Battery
Aggravated Battery on Police Officer
Aggravated Stalking
Attempted Rape
Attempted Murder
Burglary - occupied residence
Bus Hijacking
Child Molestation
Cruelty to Children
Enticing a Child for Indecent Purposes
Feticide by Vehicle
Hijacking Motor Vehicle
Homicide by Vehicle while DUI or Hab. Violator
Incest
Involuntary Manslaughter
Robbery
Statutory Rape
Voluntary Manslaughter
VGCSA - Cocaine or Meth.- 400+ grams *
VGCSA - Marijuana 10,000+ pounds*
VGCSA - Opiates - 28+ grams*
Not Parole Eligible except on Life Sentence**
Aggravated Sexual Battery
Aggravated Child Molestation
Aggravated Sodomy
Armed Robbery
Kidnapping
Rape
Murder

-

*Based on the gross weight of any mixture containing a controlled substance

** Eligible for Parole Consideration after 14 years or 30 years if crime committed after July 1, 2006

Chart Applies to Crimes Committed on or after January 1, 2006.

Chart does not include all crimes. To obtain the severity level for unlisted crimes, contact a Board hearing examiner at (404) 656-5712.

Revised – Jan. 2007

APPENDIX C: FREQUENTLY ASKED QUESTIONS

The following list of frequently asked questions is copied from the website of the Georgia Board of Pardons and Paroles (www.pap.state.ga.us):

1. What is parole?

Parole is the discretionary decision of the State Board of Pardons and Paroles to release a certain offender from confinement after he or she has served an appropriate portion of a prison sentence. Persons on parole remain under state supervision and control according to conditions which, if violated, allow for re-imprisonment.

2. What is the difference between probation and parole?

Probation is an act of the court, not of the State Board of Pardons and Paroles. Probation instead of imprisonment may be ordered by a court for all or part of a person's sentence. Probation is not parole. Parole may be granted only by the Parole Board after a person has served part of his sentence in prison.

3. Does the Parole Board run the prisons?

The State Board of Pardons and Paroles is not responsible for any operations of the State prison system. Only the Department of Corrections administers the prison, transfers an inmate from one prison to another, assigns an inmate to prison programs including work-release centers, makes an inmate a trustee, computes time to be served, issues time sheets, provides medical care, grants visiting and mail privileges, assigns inmate numbers and takes prison disciplinary action. Questions about those things should be directed to the Department of Corrections at 404-656-4661.

4. Do Board Members visit prisons to personally talk to inmates being considered for parole?

Due to Georgia's large inmate population spread in institutions around the state, such a system would be unworkable. Currently the Board reviews more than 15,000 cases annually.

5. When are inmates considered for parole?

By law inmates are eligible to be considered for parole usually after serving one-third of their prison sentence. Exceptions to this are offenders sentenced to; a term-of-years sentence for serious violent felony, life without parole and fourth-felony recidivists. Eligible inmates are automatically considered for parole, regardless of appeals or other legal action by the inmate or his or her representative.

At the time of consideration, the Board may establish a Tentative Parole Month in the future or may deny parole entirely. The Board may reconsider and change a prior decision in a case, for any reason, at any time, up to the time of release. Georgia inmates have a right to be considered for parole, but they do not have a right or "liberty interest" which requires release on parole.

6. Are inmates considered for parole more than once?

Inmates serving non-life sentences who are denied parole are not routinely reconsidered for parole. However, if substantive new information is received by the Board, the case may be reconsidered at the Board's discretion. Inmates who are serving life sentences who are denied parole must, by law, be reconsidered for parole at regular intervals not to exceed eight years.

7. How is a decision reached by Board Members?

When an inmate is considered for parole, the case file is given to one of the five Board Members, who studies it, deliberates alone, and renders his or her independent decision.

On non-life cases, Board Members determine whether the Guidelines recommendation for parole denial or for a tentative release month is appropriate in each case or whether mitigating or aggravating factors should override the recommendation.

This process continues until the majority decision has been reached on whether or not to parole the individual, and if so, when.

8. What are Parole Decision Guidelines?

It is a carefully researched method of standardizing offenders' confinement times based on crime severity and parole risk. Implemented in 1979 and revised several times since, the Parole Decision Guidelines is used to assist the Board in making consistent, soundly based, and understandable parole decisions on inmates serving non-life sentences. The offender's likelihood of success on parole is measured by weighted factors concerning the offender's criminal and social history which the Board has found to have value predicting the probability of further criminal behavior and successful adjustment under parole supervision.

9. Are Parole Decision Guidelines used to determine parole for lifers?

The Parole Decision Guidelines are used for non-life cases only. In life cases, primary emphasis during consideration is given to the nature and severity of the crime.

10. What sort of information is contained in the inmate file reviewed by the Board?

The file contains a personal interview with the inmate, diagnostic prison data, social background information, and legal circumstances of the offense(s), possibly interviews with prosecutors or arresting officers or victims. Criminal history is included in the file, obtained from juvenile records, the GBI and FBI. Letters from the community are read and pertinent information is extracted and placed in the file along with court official comments.

The Victim Impact Statement is a permanent part of the file, as is any correspondence by or on behalf of the victim. Prison reports of conduct, attitude or performance incentive credits are included, and lastly, the parole guidelines recommendation which has been based on factors extracted from all the information submitted.

11. Are all inmates considered for parole?

Offenders serving a non-life sentence for one or more of the "serious violent felonies" committed on or after January 1, 1995, are not eligible for parole and must serve 100% of the prison term imposed by the Judge. The "serious violent felonies" are murder, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery, armed robbery, and kidnapping.

By law, all other inmates in state custody are considered for parole at least once during their prison term, unless they are sentenced as a recidivist, to life without parole, or are under a death sentence. Georgia is the only state in the U.S. in which inmates serve 100% of their sentence for certain crimes, or if they are denied parole. There is no good time, gained time, or earned time applied to prison sentences in Georgia.

12. How can I check the status of an inmate's case?

You can check the status of an inmate's case by calling the Board's 24 hour automated line and follow the prompt to enter the inmate's EF or Case number. The automated line will give you the most current status on the inmate's case.

13. When is electronic monitoring used?

Beginning in January 1996 the Board began requiring electronic monitoring for all serious offenders released on parole. These offenders will have restricted movement from their homes for the first three or four months of their release and any violation may result in an immediate return to prison. Other parolees may be placed on electronic monitoring at any time during their supervision.

14. Why are inmates released by the Board, rather than serving their entire sentences?

In Georgia, the Judge sets the maximum term of confinement, and the Parole Board determines the minimum time to serve. The Board was created for the purpose of providing a non-judicial review of inmate cases, to minimize sentencing disparities, to consider rehabilitative efforts by the inmate, and to select those inmates, after careful review, most likely to succeed on parole.

In Georgia, as in other states, limited resources, increased incarceration rates, and lengthy sentences, has meant limited prison bed space. No system can accommodate the steady influx of full-term sentences. Without paroles from prison, overcrowding would result in Federal court intervention with mass releases and no state control over when or which inmates are released. Other systematic approaches, such as sentencing guidelines or structured sentencing, when implemented in other states, have resulted in a number of undesirable results such as inmates serving less time in prison, shorter sentences, fewer convicted felons actually going to prison, gained time or earned time further reducing the sentence, limited judicial discretion, increased appeals, and a reduction or elimination of important supervision upon release.

15. How much voice does the victim have in the parole process?

The impact of a crime on a victim, and the victim's concerns for safety are major considerations in each parole decision. In addition to parole denial, the Board has other restrictive options that take the victim into account, such as adding special parole conditions which ban the parolee from certain areas or require him to pay restitution to the victim. In 1991 the Board established its Victim Services Office so that victims and agencies representing victims would have a faster and more personal response to their needs. The Board continually strives for ways to attend to victims during this last phase of the criminal justice process. Also see Parole's Office of Victim Services. However, while looking at each case individually, Board members also study the case from a relative standpoint, comparing each case to others which share similar components. The Board is entrusted to make an objective decision rising above political and personal consideration.

16. Are victims notified of a parole?

Yes, if they have submitted a Victim Impact Statement or if they write and ask to be notified. Also see Community Notification.

17. What are the benefits of parole?

Prison punishes the offender but does not teach him or her how to deal successfully with society. Most inmates eventually return to society, and usually with fewer employment and social skills than when they entered. The first six months after an inmate's release from prison is the most vulnerable period. While experiencing the low self-esteem and disorientation typical after prison, he is often subjected to peer pressure to return to his former lifestyle. Offenders with substance abuse problems are particularly susceptible. The fear of returning to prison is not always strong enough to overcome the immediate pressures an offender may feel. A combination of monitored supervision and practical assistance in obtaining jobs, counseling, and support, can place the offender in a supportive, rather than destructive, context, and pave the way for his new, law-abiding life.

18. How are parolees supervised?

Parole officers, all of whom are four-year college graduates with extensive training, work to ensure the parolee re-enters society with all the community monitoring, support and guidance available to prevent the offender from returning to crime. Parolees are assigned a case plan based on the severity of their offense, their particular needs, such as literacy training, and the length of time they will have on parole. Each case is individually planned within an established structure of agency requirements such as frequent visits, reports, and other conditions to safeguard the community.

Parole officers regularly visit the parolee, his family, and his employer, to determine the parolee's compliance with conditions. Although every effort is made to help the parolee overcome addictions, learn new skills, and adjust to society's demands, the parole officer's primary responsibility is the community's safety. Georgia parole officers are POST certified peace officers who are authorized to arrest parole violators. See also Parole Supervision .

19. What is the cost of parole?

The cost of parole is \$2.91 per day per parolee.

20. How much control does parole supervision provide?

There are degrees of supervision in the community just as there are in prison. Studies have shown that certain low-risk non-violent offenders actually perform better with moderate, rather than maximum, supervision. Others require much more structure and control. At the highest end of supervision is maximum supervision with electronic monitoring which is used in two ways: punitively, for parolees who are not complying fully with technical conditions of their parole and who need 24-hour monitoring to see if revocation is in order; and preventively, for offenders straight out of prison who could benefit by a more gradual transition into the community.

21. What is parole's success rate?

Each year roughly 12 percent of Georgia's 25,000 parolee populations are returned to prison. Of these less than 10 percent are sent back for committing a new crime; most return for failing to abide by the technical terms of their conditional release.

For further information contact the Hearing Examiner's Office at (404) 656-5712 or the Victims Services Office at 1 (800) 593-9474.