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October 29, 2012	XXXXXX 00, 2021

NEVADA BOARD OF PAROLE COMMISSIONERS

OPERATION OF THE BOARD

REVISED
XXXXXX 00, 2021

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Nevada Board of Parole Commissioners *(Revised/Approved January 28, 2021)*

CODE OF ETHICS

In recognition and acceptance of the responsibilities inherent in the profession of corrections and public safety, and as a Parole Board member, I acknowledge these to be my guiding precepts:

I shall conduct my personal life with decorum, neither accepting nor granting favors in connection with my office.

- **I shall be professional and respectful to all those involved in the parole process, including offenders, victims, and those who support or oppose an offender's release.**

- **I shall prepare my cases with integrity and accuracy and share all matters of a confidential nature with only those who have a need to know.**

- **I shall respect the individual needs and characteristics of my fellow Board members and value, appreciate, and respect the decisions and views of my colleagues.**

- **I shall cooperate with my co-workers and continually strive to enhance mutual cooperation with representatives of the criminal justice agencies with whom I interact.**

- **I recognize my office as a symbol of public trust and shall constantly strive to achieve the objectives and ideals of the Board of Parole Commissioners while dedicating myself to my chosen profession.**

This code supplements the Code of Ethical Standards set forth in NRS 281A.400 and is not intended to conflict with or supersede this statute.

DISCLAIMER *(Revised/Approved July 28, 2021)*

Information contained in this publication may become outdated due to opinions by the Attorney General, changes in the law, opinions or rulings by the court, or other changes that may occur after the publication of this document that may not be immediately incorporated into a revised document.

LEGISLATIVE DECLARATION CONCERNING PAROLE *(Revised/Approved July 28, 2021)*

NRS 213.10705 states:

> *"The legislature finds and declares that the release or continuation of a person on parole or probation is an act of grace of the State. No person has a right to parole or probation, or to be placed in residential confinement, and it is not intended that the establishment of standards relating thereto create any such right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees."*

MISSION: *(Revised/Approved July 28, 2021)*

In an effort to ensure public safety, the Board of Parole Commissioners (Board) renders fair and just decisions on parole matters based on the law, the impact on victims and the community, and with the goal of successfully reintegrating offenders back into society.

VISION: *(Revised/Approved July 28, 2021)*

The Board is committed to the improvement of the quality of the criminal justice system on behalf of all the citizens of Nevada. It seeks this through a deep concern for public safety, consideration of the victims of crime and the rehabilitation of offenders.

The Board strongly believes in the parole process and is committed to the ethical, unbiased, and professional performance of its duties, and will continually strive for excellence and consistent fairness.

The members of the Board value each Commissioner and fellow employee and respect the contribution each makes toward the successful completion of our mission. The Board strives for collegiality in its internal operations and full cooperation with external organizations with which it interacts.

The Board recognizes its responsibility, not only to the citizens of Nevada and the victims of crime, but also to the offenders who appear before it. With this in mind, the Board will render objective, just and informed decisions that are free of improper external influences, while being mindful of the needs of the offender and the community.

PAROLE HEARINGS: *(Revised/Approved July 28, 2021& September 29, 2021)*

1. The Board does not determine who is eligible for parole, nor does it calculate sentence expiration dates. These are functions of the Nevada Department of Corrections (NDOC) which also records statutory good time and other credits earned by inmates. Inquiries regarding credits earned, parole eligibility and expirations of prison and parole terms shall be directed to the

NDOC offender management division, which is responsible for maintaining accurate timekeeping records.

2. All parole hearings conducted by the Board are open to the public in accordance with NRS 213.131(3). Persons attending parole hearings may do so as observers only, with the exception of victims, direct family members of victims, and inmate representatives, who are sometimes permitted to speak at these hearings. The Board may ask questions of anyone in attendance and may allow brief statements from a supporter (or a spokesperson for a group of supporters) as time allows.

3. Individual votes of all Commissioners and recommendations of hearing representatives on all decisions shall be recorded.

4. Parole hearings may be conducted by panels in accordance with NRS 213.133.

5. The results of the Board's deliberations will not be announced until four members are in agreement, and the applicable institutions, facilities, victims, and inmates are notified of the decision. This ratification process will take place as soon as practical, with notification generally taking place within 10 working days from the ratification of the vote.

6. Under the provisions of NRS 213.131(5), the Board may deliberate in private following a public hearing held to consider an applicant for parole. The Board often considers confidential information, including information obtained by parole and probation officers, employees of the Board, and victim information (NRS 213.1075).

7. Parole is an act of grace by the State of Nevada and the release of an inmate from confinement after serving a portion of their sentence is discretionary. While on parole, the inmate remains subject to the jurisdiction of the Board, under the supervision of the Nevada Division of Parole and Probation until they have completed their sentence or have been granted early discharge.

8. Parole hearings on eligible inmates generally are conducted three months in advance of minimum parole eligibility dates. In the event an inmate is not seen during the month in which their name appears on an eligibility list, the inmate will be rescheduled once their name is re-submitted by NDOC to the Board on an eligibility list. The Board will not add the name of an inmate onto an agenda unless their name appears elsewhere on that month's published eligibility list. The Executive Secretary or Parole Board Chairman may exempt this requirement if proper public notice can be accomplished.

9. Parole hearings are generally scheduled to occur at one of the offices of the Parole Board and video conferenced to the institution where the inmate is housed. Parole hearings may also take place in person or via telephonic hearing directly with the inmate per the needs of the Board. If a scheduled inmate has been moved to another institution, the parole hearing may be held at the

new institution if the NDOC is able to coordinate and establish either a video link or a telephonic connection to the new institution, there are no known victims or other interested persons interested in the outcome of the hearing, and the inmate indicates that the move has not interfered with their ability to prepare for the hearing. When a hearing cannot take place, the panel scheduled to conduct the hearing may only make a recommendation to grant parole or take no action and cause the inmate's hearing to be rescheduled to a future month.

10. The Parole Board may take action to deny parole if an inmate refuses to attend a hearing or refuses to sign the notice of the hearing provided that the notice was served in accordance with NAC 213.534.

11. All inmates eligible for parole under Nevada Statutes shall be considered for parole.

12. The Board will not act or rule on claims of inaccuracies in pre-sentence investigation reports. Any claims of inaccuracies in a pre-sentence investigation report should be addressed to the Division of Parole and Probation who is responsible for the preparation of these reports.

13. As directed in NRS 213.131, during hearings to consider inmates for parole, the Board shall allow inmates to have a representative present to confer with and to speak on their behalf if they wish. This representation may include an attorney, family member, friend or another inmate. The presence of the representative will be at the inmate's expense. Inmates with physical communication disabilities, i.e. deaf/mute, are entitled to services of an interpreter at public expense.

14. Inmates who are made immediately eligible for parole by action of the State Board of Pardons Commissioners will not be considered by the Board until the 30-day notification required by law can be effected (NRS 213.1085(5)).

CASE HEARING REPRESENTATIVES (NRS 213.133, NRS 213.135, and NAC 213.565)

(Revised/Approved September 29, 2021)

1. The Board is authorized by law to designate case hearing representatives to assist in meeting the required schedule of parole considerations.

2. Each eligible person shall be named by the Board and placed on a list, from which, the Chairman may designate to serve as a Case Hearing Representative.

3. Case hearing representatives are assigned to panels that make recommendations to the Board. A recommendation made by a case hearing representative will not be counted as a final action vote.

PANEL HEARINGS (NRS 213.133): *(Revised/Approved May 27, 2021)*

1. Parole hearing panels consist of one Commissioner and one Hearing Representative or two or more Commissioners. Two Hearing Representatives cannot represent a full panel during parole hearings. There must be at least one Commissioner present in each panel.

2. As directed in NRS 213.133(6), a panel of three or more Commissioners will conduct hearings for those inmates fitting any of the following criteria:

a. Committed a capital offense.
b. Serving a life sentence.
c. Been convicted of a sexual offense involving the use or threat of force or violence.
d. Is a habitual criminal.
e. Sentence has been commuted by the Nevada Pardons Board.

3. Parole violation hearing panels will consist of two or more Commissioners. Three Commissioners are required for those offenders meeting any of the criteria in section 2 above.

4. Panel recommendations are subject to ratification by a majority of members appointed to the Board.
(Note: Hearing Representatives also include Hearing Examiners).

PAROLE DECISIONS: *(Revised/Approved July 28, 2021)*

1. The Board has adopted standards as required by NRS 213.10885, to determine an inmate's probability of success on parole. A sample copy of the standards adopted by the Board is available at 1677 Old Hot Springs Rd. Ste. A, Carson City, NV 89706 or 4000 S. Eastern Ave. Ste. 130, Las Vegas, NV 89119 or at the Boards Website at http://parole.nv.gov/

2. NRS 213.1099, limits the Board's power to release inmates on parole.

3. During the consideration of an inmate by a panel consisting of two members, if the panel members are unable to concur in a recommendation to grant or deny parole, a third Commissioner may be added to the panel to participate in the deliberations. If a third Commissioner is not available to participate in a timely manner, the inmate will be rescheduled, and considered for parole by a panel consisting of two different panel members or a panel consisting of three members. In the case of a panel consisting of a Commissioner and a case hearing representative in which panel members are unable to concur, the recommendation of the Commissioner becomes the recommendation of the panel. Hearings that are rescheduled shall be done so as to afford proper notification pursuant to NRS 213.1085(5).

4. If a split decision (tie vote during the ratification process) should occur, an order denying parole consideration shall be issued and the inmate will be scheduled for a parole hearing six

months after the split decision is rendered.

5. Under Nevada law, if the offense for which parole is being considered occurred after July 1, 1995, the maximum denial period is three years if less than ten years are remaining on the sentence. If ten years or more remain on the sentence, the denial period may be a maximum of five years. If the offense for which parole is being considered occurred prior to July 1, 1995, the maximum denial period is three years.

6. The Board shall not parole an inmate who has received a "victim over the age of sixty" enhancement for the crime of Embezzlement or Obtaining Money greater than $250, unless the inmate has paid back at least 80% of the restitution imposed. The inmate must have ability to pay. (NRS 213.1216)

7. An inmate who has escaped shall not be considered for parole until returned to the custody of the NDOC.

8. Inmates housed in other states under compact terms, or on residential confinement, will be considered for parole in the same manner as in-state inmates. For inmates residing in other states, these hearings are generally conducted by telephone but may take place by way of video conference directly with the inmate per the needs of the Board. The Board will require a current progress report via the NDOC from the institution where the inmate is currently incarcerated.

9. As part of the parole decision making process, the Board receives and welcomes evaluations from health care professionals and prison personnel.

10. The Board has requested that NDOC inform it of infractions of the Inmate Disciplinary Process (AR707) by inmates eligible for parole consideration. Inmates who commit violations of AR 707 may be subject to an adverse parole decision.

11. The Board may take action to rescind the parole of an inmate if, prior to their release on parole, the inmate becomes involved in serious violations of AR707. If a rescission is to be considered, the Board will schedule a personal hearing to review previous order (RPO). The Board requests that the NDOC inform the Board of serious infractions that occur after an inmate has been granted parole.

12. The Board may take action to rescind the parole of an inmate if adverse information, absent at the time the panel considered the inmate for parole, is brought to the attention of the Board, and the majority of the Board concurs that the new information is serious enough to warrant a parole rescission. This action would take place via a RPO hearing.

CHAIRMAN'S VETO OF RECOMMENDATION TO DEVIATE FROM GUIDELINES:

(Revised/Approved September 29, 2021)

1. Pursuant to NRS 213.133(7), if a recommendation made by a panel deviates from the

standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division, the Chairman must concur in the recommendation.

2. In the event the Chairman does not concur in the recommendation, the case will be referred back to the panel that made the recommendation.

A. Chairman's veto of panel's recommendation to grant when adopted standards provide to deny (deviation under):

1. The panel will consider the Chairman's reasons for voting to deny parole and review the case factors, including time served to time remaining, impact on applicable victims, history, and any other relevant information to assist in determining the parole denial length.

2. In the event a majority of the Board cannot agree on the denial length, the inmate will be rescheduled for a hearing one year from the date of the current parole eligibility date, or sooner if the inmate becomes eligible for parole under NRS 213.1215 (Mandatory Release).

B. Chairman's veto of panel's recommendation to deny when adopted standards provide to grant (deviation over):

1. The panel will consider the Chairman's reason for voting to grant parole, or the reasons for a lesser denial period than the original panel recommendation, to assist them in determining whether to grant parole or to determine an appropriate period of denial.

2. If the Chairman does not concur in the panel recommendation after further review, the inmate will be rescheduled for a hearing one year from the date of the current parole eligibility, or sooner if the inmate becomes eligible for parole under NRS 213.1215 (Mandatory Release).

PAROLE APPLICATIONS: *(Revised/Approved September 29, 2021)*

1. An inmate does not need to prepare a formal application for parole. In accordance with NRS 213.131, the NDOC will determine when an inmate is eligible to be considered for parole, notify the Board, and compile and provide the Board data that will assist it in determining whether parole should be granted.

2. Parole Hearing Reports provided by NDOC staff should include, but not be limited to: sentence structure, prior felonies, merit awards, offense summary, holds and detainers, security threat group involvement, offenses in custody, work assignment history, classification, program assignments, mental health restrictions, statements regarding the offense, institutional adjustment, work and/or education performance, community supervision needs, planned residence and employment, and a current parole risk assessment.

PAROLE GRANT: (NRS 213.1218, NRS 213.140, NRS 213.142) *(Revised/Approved November 29, 2021)*

1. Inmates cannot be released on parole prior to attaining their minimum parole eligibility. This includes to a consecutive sentence. It is the responsibility of the NDOC to provide the Board with the inmate's minimum eligibility date.

2. Grants of parole may be effective at initial parole eligibility, or on a future date. If the grant of parole occurs at a subsequent hearing, the release date will be at the Board's discretion.

3. Per NRS 213.140, the Board may authorize the release of an inmate on parole whether or not parole is accepted by the inmate. The NDOC and the inmate shall develop a reentry plan for the inmate. The Division shall review and verify the reentry plan, and if appropriate, approve the reentry plan before the inmate's parole eligibility date. If the Division does not approve the reentry plan, the Division will assist in developing an alternative reentry plan before the inmate is released on parole. If the inmate refuses to cooperate with the Division in the development of a new plan, the Board may conduct a hearing and rescind the previously granted parole, when appropriate.

4. Per NRS 213.1218, before being released on parole, the inmate must submit to the Division a signed document stating that they will comply with the conditions of parole, and that if the parolee fails to comply with the conditions of parole and is taken into custody outside of Nevada, the parolee waives all rights relating to extradition proceedings. The Board encourages final signing immediately prior to release.

5. The Board grants and sets conditions of parole under the provisions of NRS 213, and the parolee remains subject to the jurisdiction of the Board from the time of their release on parole until the expiration of the maximum term of imprisonment. The Board does not administer paroles. The Division supervises all persons on parole. Parolees that request changes or modifications to the special conditions of parole should do so through their supervising parole officer. The Board will act on the request after receipt of a letter from the Division providing their input and recommendation. If the Division is requesting a change or modification of conditions, they should do so in writing. If the parolee agrees with the change or modification, the letter should include a signed statement of agreement from the parolee in addition to a waiver of appearance before the Board. If the parolee is not in agreement with the proposed change or modification, a hearing to consider the request may be scheduled, and the presence of the parolee and a representative of the Division may be required.

PAROLE GRANTS TO SEX OFFENDERS: (NRS 213.1214) *(Revised/Approved November 29, 2021)*

1. Per NRS 213.1214, the NDOC shall assess each inmate who has been convicted of a sexual offense to determine the inmate's risk to reoffend in a sexual manner using a currently accepted standard of assessment. This assessment shall be provided to the Board no sooner than 120 days before a scheduled parole hearing. The Board shall consider this assessment before determining to grant or revoke a parole of a person convicted of a sexual offense.

2. If a parolee serving a sentence for an offense listed in NRS 213.1214 is returned to the custody of the NDOC for any reason, the inmate may not be released again on parole unless the NDOC assesses the inmate to determine the inmate's risk to reoffend in a sexual manner using a currently accepted standard of assessment and provides its results to the Board in accordance with NRS 213.1214.

PAROLE GRANTS TO CONSECUTIVE SENTENCES & EXPIRATION OF SUBSEQUENT SENTENCE: *(Revised/Approved November 29, 2021)*

1. An inmate who has been granted parole to a consecutive sentence and is expiring a subsequent sentence with time still remaining on the sentence previously granted parole, may not be released from the NDOC until:

a. The Board has the opportunity to set any special conditions which may apply to supervision in the community;
b. The Division receives a viable reentry plan from the inmate (which may involve the participation of the Division in developing the reentry plan), and;
c. The Division conducts a pre-release investigation and approves the reentry plan.

PAROLE DENIALS: (NRS 213.1215, NRS 213.131, NRS 213.142 and NAC 213.536) *(Revised/Approved November 29, 2021)*

1. Per NRS 213.142, upon denying discretionary parole to an inmate, the Board shall schedule a rehearing. The denial period and future eligibility date for the considered sentence(s) is set by the Board. However, the maximum period between eligibility dates cannot exceed three years, or five years if the offense occurred after July 1, 1995, and the remaining time left on the sentence is 10 years or more.

2. Per NRS 213.131, the Board must not deny parole to an inmate unless the inmate has been given reasonable notice of the meeting and the opportunity to be present at the meeting. If parole is denied, the Board shall provide specific recommendations for how to improve the possibility of granting parole the next time the inmate is considered for parole.

3. Per NRS 213.1215 (mandatory release), if the Board finds that there is a reasonable probability that the inmate considered for release on mandatory parole will be a danger to public safety while on parole, the Board may require the inmate to serve the balance of his or her sentence and not grant the parole. If the Board does not grant the mandatory parole, the Board

shall provide to the inmate a written statement of its reasons for denying parole.

4. Additionally, per NRS 213.1215, for an inmate who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time the inmate committed the offense for which the inmate was imprisoned, if parole is denied, the Board shall schedule a rehearing pursuant to NRS 213.142. The Board shall provide to the inmate a written statement of its reasons for denying parole, along with specific recommendations of the Board, if any, to improve the possibility of granting parole the next time the inmate may be considered for parole.

PRISONER CONDUCT: *(currently under review)*

1. When granted parole, and up until their release date, the prisoner must continue to comply with NDOC AR707. Violation of this regulation may be cause to rescind the previous decision to grant parole.

2. When the NDOC advises the board of a paroled prisoner's misconduct, the board may take no action and allow the prisoner to be released on parole as scheduled, or, schedule a hearing to consider rescinding the previous action to grant parole.

STANDARD/SPECIAL CONDITIONS: *(Revised/Approved January 28, 2021)*

1. The Board has an approved list of standard conditions of parole which are reflected on the parole agreement prepared and issued by the Division of Parole and Probation. Additions to these standard conditions of parole may occur, or they may be modified, or deleted, as necessary, with the approval of a majority of the Board, at a public meeting.

2. In addition to the standard conditions, the Board has an approved list of special conditions of parole which may be imposed if they are reasonable under the circumstances to assist in the successful completion of parole. Additions to this list of special conditions or parole may occur, or they may be modified, or deleted, as necessary, with the approval of a majority of the Board, at a public meeting. However, individualized special conditions may also be imposed outside of this approved list of conditions as long as they remain reasonable to protect the health, safety, and welfare of the community.

3. All standard and special conditions imposed on offenders granted parole to the community shall also apply to earlier granted paroles that remain on active status.

CONFIDENTIAL INFORMANTS: *(Revised/Approved January 28, 2021)*

1. Because parolees are occasionally requested by law enforcement officials to act as confidential informants, or participate in an undercover capacity, parolees may be exposed to a detrimental environment and/or associates. As such, the Board directs that parole officers be instructed to

prohibit parolees under their supervision from acting as confidential informants or participating in an undercover capacity for law enforcement agencies, without the approval of the Chief of the Division of Parole and Probation.

RECONSIDERATION OF UNFAVORABLE ACTION: *(Revised/Approved March 31, 2021)*

1. Inmates may request reconsideration of parole denials pursuant to NAC 213.522 (crime severity level), 213.524 (risk level), and 213.526 (other circumstances). Requests must be made in writing to the State Board of Parole Commissioners not later than 45 days after the date of the parole hearing and must be based on circumstances which existed at the time of the original risk assessment and or parole hearing.

2. When the request is made based on an incorrect crime severity level, the Department of Corrections must also inform the Board in writing if the crime severity level should have been lower. If the corrected crime severity level makes a new risk assessment more favorable to the inmate, a new hearing will be scheduled to reconsider parole as soon as practicable.

3. When the request is made based on an incorrect risk level, and the facts presented by the inmate were deemed not to have been considered at the time of the original assessment and/or parole hearing, or a factor was not given appropriate weight, the risk level will be reassessed. If the new risk level is the same or higher than the previously assigned risk level, the Executive Secretary or the employee designated by the Board must affirm the denial of parole. If the new risk level is lower than the previously assigned risk level, and if the application of the new risk level to the parole risk assessment, causes a more favorable guideline recommendation, a new hearing will be scheduled to reconsider parole as soon as practicable.

4. Requests for review other than crime severity or risk levels may only be performed if the circumstances existed at the time of the hearing, are factors considered when determining whether to grant parole, and the Board did not have knowledge of the factors at the time of the hearing. If the circumstances in this request exist, the Executive Secretary of the Board will present the request to the Board. A majority of the Board will indicate in writing whether or not to schedule a meeting to reconsider the denial of parole.

5. The Board is sensitive to the problems of members of the family of those convicted of crime but must deal primarily with the offender and the offense. Family circumstances, business affairs, hardship, need, and other problems shared almost universally by inmates are not usually considered adequate reasons for advancement.

6. Participation in self-help programs offered by the prison is expected of all inmates in normal course, and such participation is not viewed as sufficient basis for advancement.

PRE-RELEASE RESCISSION/REVIEW PREVIOUS ORDER (RPO - NAC 213.545):
(Revised/Approved May 27, 2021)

1. The Board may rescind the parole of an inmate after granting parole before the inmate is released from prison. If an inmate is scheduled to be released on parole in less than three working days after the Department or the Division becomes aware of information providing grounds to rescind the parole of the inmate, to include violations of Nevada Department of Corrections Administrative Regulation 707 (AR 707 Inmate Disciplinary Process), the Department or Division may:

a) Delay the release of the inmate on parole for not more than three working days after the inmate's scheduled release date;
b) Provide any Board member written notification of the grounds to rescind parole and inform the Board that the inmate's release has been delayed; and
c) Request a member of the Board to order the further delay of the inmate's release.

2. If a member of the Board becomes aware of information providing grounds to rescind the parole by way of written notification as detailed above, the member of the Board may order the delay of the release of the inmate to allow time for the Board to consider rescinding the parole.

3. If the member of the Board, after receiving written notification, does not order the delay of release of the inmate on parole withing three days after the scheduled release date, the inmate must be released.

4. If a member of the Board orders the delay of release of an inmate on parole, the Board will, as soon as practicable:

a) Authorize the release of the inmate, if a majority of the members of the Board state in writing that the parole should not be rescinded; or
b) Schedule a meeting to consider whether to rescind the parole of the inmate.

5. An inmate who has received a grant of parole and has not been scheduled for release or has not reached their eligibility date is subject to a reconsideration hearing if the Board becomes aware of information which provides grounds to rescind the parole. This may include, but is not limited to, major violations of the inmate disciplinary procedure, changes in sentence structure, inmate escapes, or if a documented victim statement was not received.

BOARD COMMUNICATIONS: *(Revised/Approved January 28, 2021)*

1. The Parole Board sits as an arm of the sentencing court. Board members derive their authority from their function as a Board and do not have individual power to grant or deny parole. Just as it is never proper for someone to contact a sentencing judge outside the context of a hearing, it is inappropriate for inmate family or supporters to meet with individual Board members in an attempt to persuade specific action. Commissioners will not personally discuss specific cases with or accept input from persons who are not the specific victim of the inmate.

2. Parole commissioners will make themselves available by appointment to personally accept confidential information from victims of crime. (See NRS 213.131)

3. The Board welcomes all available information on prisoners being considered for parole, favorable and unfavorable. Recommendations for or against parole should be made in writing so they may be placed in the prisoner's file.

4. The victim of any person being considered for parole may submit documents to the Board and may testify at the meeting held to consider parole. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board is confidential. The Board may meet with a victim in private immediately prior to or after a parole hearing to allow for the input of confidential personal information.

5. All protected information submitted by a victim to the Board shall remain strictly confidential and may not be disclosed to any person other than the Board, employees of the Board, counsel to the Board, and when ordered by the court. The Board and its employees shall neither acknowledge the presence or absence of any victim, or victim input, nor shall it discuss any input from a victim during a public meeting unless the victim is present during the hearing and or authorizes such discussion.

6. Any victim who advises the Board in writing of their desire to be notified of specific parole hearings and results, and keeps the Board advised of their current mailing address will be notified. (See NRS 213.131) The Board is not responsible if notification information is not current.

7. The views of Nevada judges, district attorneys, and law enforcement are welcomed by the Board, and are duly considered when the decision to either grant or deny parole is made.

EARLY DISCHARGE FROM PAROLE (NRS 213.1543 and LCB File No. R118-19): *(Revised/Approved May 27, 2021)*

1. The Division shall determine whether a parolee meets the qualifications for early discharge from parole pursuant to NRS 213.1543 and, if the parolee meets such qualifications, make a

written recommendation to the Board for the early discharge of the parolee from parole.

2. A written recommendation for early discharge from parole made by the Division pursuant to subsection 1 must include, without limitation:

(a) Verification that the parolee has served at least 12 calendar months on parole supervision in the community and is projected to have not more than 12 calendar months of community supervision remaining to serve on any sentence;

(b) Verification that the Board has not found the parolee in violation of any condition of parole during the immediately preceding 12 months;

(c) Verification that the parolee is current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076;

(d) Verification that the parolee has paid restitution in full or, because of economic hardship that is verified by the Division, the parolee has been unable to make restitution as ordered by the court;

(e) If applicable, verification that the parolee has completed any program of substance use treatment and/or mental health treatment or a specialty court program as mandated by the Board; and

(f) The risk assessment level of the parolee according to the Nevada Risk Assessment System or its successor risk assessment tool.

3. Upon receipt of a written recommendation for early discharge from parole made by the Division pursuant to subsection 1, the Board will consider the parolee for early discharge from parole with or without a hearing, in the discretion of the Board. The Board will not consider the parolee for early discharge from parole without a hearing if a victim of the parolee has requested notification of a hearing.

4. If the Board determines that a hearing will be held to consider a parolee for early discharge from parole:

(a) The Division shall, not later than five working days before the hearing, deliver a written hearing notification to the parolee.

(b) The Board will, not later than five calendar days after the hearing date is scheduled, notify any victim of the parolee who has requested notification of a hearing in writing and who has provided his or her current address to or whose current address is otherwise known by the Board.

(c) Any victim who is provided notification of a hearing pursuant to paragraph (b) may submit documents to the Board and may testify at the hearing. A parolee must not be considered for early discharge from parole pursuant to this section until the Board has notified any victim of his or her rights pursuant to this paragraph and the victim is given the opportunity to exercise those rights. If a current address of the victim is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.

5. If a hearing is held to consider a parolee for early discharge from parole, the Board may, after the hearing, deliberate in private to consider whether to approve the early discharge from parole. Before determining whether to approve a parolee for early discharge from parole, the Board may consider, without limitation:

(a) Any further potential risk posed to the community or the victims of the parolee; and,
(b) Whether further supervision is necessary.

6. If a victim is notified of a hearing to consider a parolee for early discharge from parole pursuant to subsection 4, the Board will, upon making a final decision concerning the early discharge of the parolee from parole, notify the victim of its final decision.

7. Any credits awarded by the Board to reduce a sentence pursuant to subsection 2 of NRS 213.1543 must not exceed 12 months.

NOTIFICATION OF PAROLE HEARINGS:

1. As required by NRS 213.1085, the Board will send notice of pending parole consideration to all Nevada judges, district attorneys, law enforcement agencies and victims of record 30 days in advance of such action.

MANDATORY PAROLE RELEASE (NRS 213.1215): *(Revised/Approved March 31, 2021)*

1. The Board does not determine who is eligible for a mandatory release hearing (MPR) but will take the appropriate action based on the eligibility list and other information provided each month by the NDOC.

2. Inmates with sentences of three or more years, excluding life sentences, are subject to MPR consideration which mandates the release of the inmate unless they:

a. Have a consecutive Nevada sentence, or
b. Have been released on parole previously for that sentence, or
c. Are considered by the Board to be a danger to public safety if released on parole.-

3. As is the case with discretionary parole grants, MPR grants to inmates with active holds can only be to the hold.

4. If an inmate is eligible for release under MPR within 150 days of the date of the hearing, the inmate shall be considered for release under MPR. However, if the panel determines that release under MPR may be appropriate, the panel may recommend an earlier release under discretionary parole, if appropriate.

5. In accordance with NRS 213.1215(2), if an inmate serving a sentence of life with the

possibility of parole was under the age of 16 when the crime was committed, the Board must grant parole to the community if the inmate:

a. Has served the minimum term imposed by the judge, and
b. Has completed a program of general education or an industrial or vocational program, and
c. Has not been identified by the NDOC as a member of a security threat group, and
d. Has not committed a major disciplinary or has been housed in Disciplinary Segregation within the last 24 months.

However, if a prisoner who meets the criteria set forth in subsection 2 is determined to be a high risk to reoffend in a sexual manner pursuant to NRS 213.1214, the Board is not required to release the prisoner on parole pursuant to this section. If the prisoner is not granted parole, a rehearing date must be scheduled pursuant to NRS 213.142.

6. If a prisoner who meets the eligibility criteria for consideration of parole set forth in NRS 213.1215(2) does not meet the mandatory release criteria for mandatory parole in accordance with NRS 213.1215(3), the Board may grant release under discretionary parole or deny parole. If a prisoner is denied parole, the Board must state its reasons for denial in writing.

7. If a prisoner meets the requirements for MPR, and there are no victims requiring notification, the Board may grant parole to the prisoner without a meeting.

PAROLE VIOLATION HEARINGS (NRS 213.150-NRS 213.153, NAC 213.550): *(Revised/Approved March 31, 2021 & November 29, 2021)*

1. Violation of any rules or special conditions of parole can bring about revocation of parole and re-imprisonment.

2. The Division is responsible for the supervision of all parolees in the community. The Division is also responsible for monitoring those parolees who are residing in other states, via Interstate Compact. The Division files charges of parole violation(s) and places holds on accused violators. They are also responsible for conducting preliminary inquiry hearings when necessary.

3. The Board sits as an impartial hearing body at the final violation hearing and determines whether paroles previously granted will be revoked.

4. At the Parole Violation hearing, the Board makes the final decision to reinstate all or part of the statutory good time which is lost upon revocation.

5. Parole violation hearings will be held in Northern and Southern institutions in Nevada, depending upon the location of the alleged parole violator. These hearings may be conducted in person, remotely via video conference, or by telephone, based on the needs of the Board.

6. The Board considers only those cases in which the alleged violators, and/or counsel, have received the Notice of Charges, and a copy of the allegations.

7. The parolee may at any time before or after the applicable time period, waive the preliminary inquiry hearing. Should the parolee not waive the preliminary inquiry hearing, and to allow adequate time for preparation, the Board prefers that the Division allow a period of five (5) days, excluding Sundays and holidays, after notification of charges, to conduct the preliminary hearing.

8. The Board shall consider the accused violator's case within 60 calendar days after their return to the custody of the Nevada Department of Corrections (NDOC) or placement in residential confinement. It is the Board's desire that accused violators are scheduled for a hearing as soon as possible upon their return to the custody of the NDOC. If probable cause for continued detention of a paroled prisoner is based on conduct which is the subject of a new criminal charge, the Board may consider the case within 60 days after their return to the custody of the NDOC, or defer consideration until not more than 60 days after their return to NDOC following the final adjudication of the new criminal charge. The alleged violator has a right to counsel at the violation hearing and may be represented by a private attorney of their choice at their expense, or a public defender if indigent. An inmate may waive their right to the presence of counsel if the waiver is knowing, intelligent, and voluntary. To be voluntary, the waiver must be non-coerced and, to be knowing and intelligent, the waiver must be made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. A thorough inquiry should be conducted to ensure that the inmate is aware of the dangers and disadvantages of self-representation and is competent to make such a waiver given the facts and circumstances of the case and the inmates background, experience, and conduct. All such inquiries and waivers should be made on the record. Please see "State of Nevada Board of Parole Commissioners Waiver of Right to Counsel at Parole Violation Hearing" located in the appendix.

9. The alleged violator and/or defense counsel may, with good cause, request the violation hearing be continued if additional time is needed in the preparation of the case. A waiver, however, will not be allowed simply for the purpose of delaying the hearing. The Board may take action to revoke parole if an inmate refuses to attend a violation hearing.

10. Since transcripts of parole violation hearings may be subpoenaed for the purpose of impeaching the testimony of the parolee at criminal trials, continuations of violation hearings until pending charges are disposed of may be granted, if requested by the parolee and/or counsel.

11. Unless a new conviction is included in the violation charges, an alleged violator has the right to present witnesses on their own behalf at their expense, who can offer information pertinent to the violation charge. This does not include character witnesses.

12. An alleged violator has the right to confront adverse witnesses. However, they must indicate they wish to do so on the Notice of Charges in order for the Division to schedule the witness to appear. The Board may grant a continuance, without violating the "60-day rule" for prompt hearing, if the parolee and/or defense counsel requests to confront an adverse witness not present and not previously noted on the Notice of Charge.

13. When the violation is based on a new conviction, the accused parole violator may not present or confront witnesses or offer evidence to re-litigate the parolee's guilt or innocence on the new charge. The parolee may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

14. The Board, in the presentation of charges in parole violation cases, requires whenever practicable that witnesses against the accused violator, or the supervising parole officer, do not act as presenters of evidence.

15. Documents, letters, affidavits, or other pertinent information or physical evidence may be presented by either the alleged violator or the Division. Substance of pertinent reports from other agencies may be made available to the alleged violator.

16. The alleged violator must submit to the NDOC (if in prison custody), and the Division, a list of names and addresses of witnesses they wish to present on their own behalf. However, as noted earlier, when the violation is based on a new conviction the alleged violator forgoes the right to present or confront witnesses in re-litigation of the facts of the new conviction.

17. All witnesses providing testimony at the violation hearing, except for the parolee and the presenting Division employee, must do so under oath, which will be administered by a member of the Board.

18. The findings of the Board will be made a matter of record, including a record of the violations for which the parolee was held responsible, and the evidence relied upon to reach these findings may be summarized. A copy of the findings will be supplied to the parole violator. For related material, please see the "Parole Violations and Sanctions" document and the "Sentence Credit Earnings & Forfeitures and their Effect on Parole Eligibility and Sentence Discharge Dates" documents dated June 18, 2020, which are located in the appendix.

VIOLATION HEARINGS IN ABSENTIA (NRS 213.15187/AB80): *(Revised/Approved January 28, 2021)*

1. If a parolee is convicted of and incarcerated for a new crime in a jurisdiction outside of the Nevada Board of Parole Commissioners authority (federal, out of state, tribal, etc.), the time during which the prisoner is incarcerated in the other jurisdiction is not time served on his or her term of imprisonment in this state, until the completion of the sentence imposed in the other jurisdiction (if the new offense was committed on or after March 16, 1999).

2. Upon notification of a new conviction outside the jurisdiction of the Nevada Board of Parole Commissioners jurisdiction, the Division of Parole and Probation will provide any pertinent documents to the parolee and advise them of their rights. Upon receipt of a signed waiver, the Division of Parole and Probation will schedule a parole violation hearing as soon as practical, the timing of which should not exceed 60 days from the date of receipt of the signed waiver. If the parolee refuses to sign a waiver, they will be scheduled for an in-person parole violation hearing within 60 days of being returned to the custody of the NDOC.

3. If the parolee waives their right to an in-person violation hearing, the Board may:

a. Take action to revoke the parole of the prisoner immediately and allow the time during which the prisoner is incarcerated in the other jurisdiction to be time served on his or her imprisonment term in this state;
b. Take action to revoke the parole of the prisoner at a later date that the Board specifies and allow the time during which the prisoner is incarcerated in the other jurisdiction after the date on which parole is revoked to be time served on his or her imprisonment in this state;
c. Take action to continue the parole of the prisoner immediately and allow the parole of the prisoner to run concurrently with the time served in the other jurisdiction;
d. Take action to continue the parole of the prisoner at a later date that the Board specifies and allow the parole of the prisoner to run concurrently with the time served in the other jurisdiction after the date on which parole is continued; or
e. Take no action at all. If the Board chooses to take no action, the parolee will not earn time on the Nevada sentence and will be scheduled to appear before the Board for an in-person Parole Violation Hearing within 60 days of their return to the NDOC.

4. Once the Board has determined the appropriate action, the Division of Parole and Probation will advise the parolee of the Board's decision and provide a copy of the Board's action to the parolee.

PROCEDURAL DUE PROCESS HEARINGS: *(Revised/Approved January 28, 2021)*

Initiation of Petition for Procedural Revocation

Generally, a petition for the procedural revocation of parole is initiated by the governmental entity responsible for the error resulting in an erroneous release. However, there may be instances where changes in a Judgement of Conviction or other external factors may have a

negative effect on a previous parole action. In cases such as this, a parolee or representative may also petition for the procedural revocation of a parole. The steps to initiate a procedural revocation include:

1. Petitioner prepares a report with exhibits/evidence and submits the packet to the Board requesting that the Board take up the matter.
2. The Parole Board staff reviews the packet and evidence to determine whether probable cause exists to consider the petition. If the packet or evidence is not appropriate, unclear or incomplete, it is returned to the petitioner with an explanation and request to cure any defect and resubmit.
3. Once the petition and other documents are in order, the Board will:
    a. Set the hearing date, time, and location;
    b. Prepare and post an agenda for the public hearing;
    c. Prepare an Order for the Parolee to Appear;
    d. Prepare a document which advises the parolee of his or her rights; and
    e. Include a copy of the petition and exhibits to the parolee with the Order to Appear.
    f. Provide the parolee's packet to the governmental entity supervising the parolee for the documents to be served and processed.
4. The Board conducts the hearing and renders a decision.

Procedural Revocation Hearing Process

A procedural due process hearing will be conducted by the Board in the same relative manner and format in which parole violation hearings are conducted. The Board or panel established in accordance with NRS 213.133(1)(a) will act as a neutral body and consider the evidence and testimony presented by the petitioner and the parolee.

Parties Present

The following parties must be present at the hearing:

1. The petitioner or the petitioner's representative, and any witnesses the petitioner may want to call;
2. The parolee, the parolee's attorney/representative (if any) and any witnesses the parolee wishes to confront or cross examine, and any witnesses called to testify for the parolee.
3. When not acting as the petitioner, a representative of the governmental entity responsible for an alleged error nexus to the need for procedural revocation.

Conduct of the Hearing

After the Board has formally established on record the purpose of the hearing and determined the relevant parties are present, the petitioner will be called on to present the case and arguments to support the petition for procedural revocation.

The petitioner will begin by submitting evidence to support the need for procedural revocation.
When the action requested by the petitioner is adverse to the parolee, the parolee and/or counsel will be permitted to cross examine any witnesses testifying in support of the petition and/or challenge the accuracy of any evidentiary documentation provided by the petitioner.
When the action requested by the petitioner is adverse to the State, the State will be permitted to cross examine any witnesses testifying in support of the petition and/or challenge the accuracy of any evidentiary documentation provided by the petitioner.
Once the petitioner has concluded, the respondent may provide evidence and testimony to support the position that is contrary to the position of the Petitioner.
Upon the conclusion of the evidentiary review, the petitioner will be asked to make a recommendation to the panel as to the requested outcome of the matter followed by the respondent's recommendation to the panel as to the requested outcome of the matter.
The Board will deliberate in private before submitting a decision on the matter and will issue a written order detailing the basis for any decision.

For complete approved document see Procedural Due Process

INSTITUTIONAL PAROLE REVOCATION HEARINGS: *(currently under review)*

1. Prisoners who are serving institutional paroles remain subject to the jurisdiction of the Board. Major violations of AR707, Inmate Disciplinary Procedure, may result in an institutional parole revocation hearing.

2. The NDOC will coordinate with P&P to secure the proper documents needed to begin the revocation hearing process and schedule a RPO hearing with the assistance of P&P or the Parole Board's Executive Secretary.

3. The Board operates under the Attorney General's opinion stating that no preliminary hearing is required when the parole violator is not in custody solely pending revocation hearing proceedings. An offender that has been granted parole to a consecutive sentence is not being deprived of their liberty because of parole violation charges, therefore, no preliminary inquiry hearing is required.

4. The results of a disciplinary hearing has the same result of a judgment of conviction in that the prisoner had the opportunity to confront and cross examine adverse witnesses and testimony at the disciplinary hearing. The prisoner may not present or confront witnesses or offer evidence to re-litigate the parolees guilt or innocence regarding the guilty finding at the disciplinary hearing. The offender may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

POWER TO SUBPOENA: *(currently under review)*

1. Under the provisions of NRS 213.1089, the Chairman of the Board is delegated subpoena power by the Nevada Legislature. The Board established the following rules governing the issuance of subpoenas:

a. The Chairman of the Board will not automatically issue subpoenas upon request by a parolee or their attorney. The law did not intend, nor has it established, automatic right to subpoena.

b. The parolee or their attorney will be required to establish the need for the presence of the requested witness, and the showing that the witness has refused to appear without a subpoena must be included in the request.

c. To expedite the request, parties seeking subpoenas should include a resume of the tenor of the testimony of the requested witness, and statements to its relevancy.

d. Service of the subpoena is incumbent upon the parolee or his attorney.

e. Requests for subpoenas must be accompanied by witness fees and travel allowances as set by law.

f. The Chairman of the Board lacks jurisdiction to issue subpoenas to out-of-state residents.

RESTORATION OF STATUTORY GOOD TIME CREDIT: *(currently under review)*

1. In consultation with the office of the Attorney General, the Board and the NDOC have agreed upon a procedure by which prisoners may seek to have statutory good time credits, which they lost at parole revocation proceedings, restored.

2. Requests must be initiated with the prison caseworkers, after 6 months of disciplinary free behavior. They will be acted on by the Board only after receiving favorable recommendations from classification committees, Wardens, and the Director of the NDOC, or designee. (NDOC AR 564.06)

3. The Board cannot reinstate statutory good time forfeited by violation of paroles granted under the MPR act (NRS 213.1215, NRS 213.1519) nor may the Board restore absconder stat or flat time taken at a parole violation hearing pursuant to NRS 213.15185

LIFETIME SUPERVISION HEARINGS NRS 213.1243, 176.0931, NAC 213.290):

1. Offenders convicted of sexual offenses (referred to in NRS 176.0931) are also sentenced to lifetime supervision.

2. The Board is responsible for setting the conditions of offenders sentenced to lifetime supervision. P&P supervises these offenders. Lifetime supervision shall be deemed a form of parole which commences upon the completion of probation, term of imprisonment, or parole. Violators of lifetime supervision are subject to a new felony conviction with a minimum 1 year and maximum 6 year term in prison.

3. At least 90 days before an offender with lifetime supervision is to complete parole, probation, or expire their sentence, P&P will provide a list to the Board of these offenders with a date on which they will complete their term or be released.

4. Upon receipt of the written notification, the Board will schedule a hearing to establish the conditions of lifetime supervision for the sex offender. The hearings will be held at the Board office and will be conducted by 3 members of the Board.

5. At a minimum, 30 days prior to the hearing, P&P will provide the Board with a report on the status of each sex offender which will include a summary of the progress of the offender and a recommendation for the conditions to be set upon the offender.

6. Offenders may or may not attend the hearing. The hearings will be conducted in absentia if the offender does not appear or if the offender is still incarcerated.

7. The Division may request the Board to modify the conditions of lifetime supervision of a sex offender. Upon receipt of the request the Board will schedule a hearing to consider the request. The Board may require the offender and or an officer of the division to appear at the hearing.

8. A majority of the Board is required to ratify the conditions set by the Board.

PROCEDURE WHEN LEGISLATION WHICH MAY IMPACT PAROLE ELIGIBILITY DATES IS PASSED INTO LAW.

1. The Nevada Department of Corrections (NDOC) has the statutory requirement to maintain inmate sentences and determine parole eligibility dates. When legislative changes which may affect parole eligibility occur, the Chairman shall designate an employee of the Board to participate with applicable staff at the NDOC regarding the interpretation and implementation of the legislative changes.

2. The designee shall make himself or herself available to meet with the appropriate NDOC staff to examine and discuss the impact of new laws. The designee shall assist, as appropriate, in the implementation of changes resulting from new legislation affecting parole eligibility.

3. The designee shall report issues and progress to the Chairman, and assist in any training to

staff of the Parole Board, as necessary.

4. The NDOC is not required to accept assistance or input from the Boards designee, but in all cases, the Board shall adhere to this policy in offering coordination and assistance regarding this topic.

Appendix

Appendix 1

Nevada Board of Parole Commissioners

Procedural Due Process for the Non-Punitive Revocation of Parole

Approved by the Board December 31, 2020

This document was developed to provide guidance for the correction of paroles granted on erroneous sentences or changes to a sentence that parole was granted on. The information appearing in this document is for general informational purposes only and is not intended to provide legal advice to any individual or entity. The Board reserves the right to alter procedures contained herein as necessary. The establishment of this document is not intended to establish a cause of action or a basis to overturn the outcome of a hearing if strict adherence is not followed. This document has not yet been approved as policy by the Board and may be revised without notice.

Background Information

Procedural Parole Revocation

A Procedural Parole Revocation is a formal non-punitive action taken by the Board to revoke the parole of a person who was erroneously released on parole to a consecutive sentence or to the community.

An erroneous release can occur because of several reasons including, but not limited to: the re-interpretation of a sentence structure, an error in the execution of a sentence structure, an amendment to a Judgement of Conviction (JOC), an error when a parole document is produced and the misapplication of sentence credits.

A procedural revocation of parole must not be construed as a punitive revocation and may not be considered a revocation for the purposes of classification, preparation of risk assessments or any factor or statistical calculation used or prepared within the criminal justice system.

Jurisdiction (NRS 213.1099(3))

The Board is the only agency with the authority to grant and revoke parole. When an error in the release of a prisoner on parole occurs, the Board has the responsibility to consider and act upon a petition to consider the procedural revocation of parole.

Parole Revocation vs Parole Rescission

Parole Revocation:
A parolee has a liberty interest in the parole that is protected from deprivation without procedural due process[1]. A person who has begun to receive the benefit[2] of parole (whether in-custody or in the community) is entitled to due process protections including when a parole is alleged to be invalid because of an erroneous release to the community or to a consecutive sentence.

Parole Rescission:
Parole rescission is action taken after a hearing to deny the previously granted parole of a person who is still in custody and actively serving the sentence parole was granted on. A prisoner subject to parole rescission is not entitled to the due process protections required for the revocation of parole.

Parole Rescission due to ineligibility:
When the Board is notified by the Nevada Department of Corrections that a previously granted prisoner is no longer eligible for parole, and the prisoner has not yet been released to the street or consecutive sentence, the parole may be rescinded without a hearing. When this occurs, the prisoner will be seen

[1] U. S. Supreme Court's decision in *Morrissey v. Brewer*, 408 U. S. 471 (1972)
[2] The benefit of parole must be bona fide.

when the prisoner becomes eligible, and the new hearing will be treated as if it is a first hearing on the case(s).

Parole Rescission and Denial of Parole:
If the outcome of a rescission could result in a denial of parole, the prisoner is entitled to a hearing prior to the rescission action[3]. The release of a prisoner who has not yet received the benefit of parole may be suspended beyond the prisoner's eligibility date by the Board to allow for the scheduling of a hearing to consider rescinding and denying the previously granted parole.

Due Process Rights – Parole Revocation versus Non-Punitive Procedural Parole Revocation

A Parole Violation Hearing is a proceeding conducted to ensure there are enough verified facts supporting the revocation of parole.

The U. S. Supreme Court established the following minimum due process requirements prior to an entity acting on a violation that results in the revocation of parole:

(a) Written notice of the claimed violations of parole;
(b) Disclosure to the parolee of the evidence against him;
(c) The opportunity to be heard in person and to present witnesses and documentary evidence;
(d) The right to confront and cross-examine adverse witnesses (unless the panel conducting the hearing specifically finds good cause for not allowing confrontation);
(e) A "neutral and detached" hearing body; and
(f) A written statement by the factfinders as to the evidence relied on and the reasons for revoking parole.

The U. S. Supreme Court has not addressed the minimum due process requirements for a non-punitive procedural revocation of parole, however the same principles regarding the protections afforded to a procedural revocation of parole apply and are described as follows:

(a) Written notice of the claimed error that resulted in the erroneous release;
(b) Disclosure to the parolee of the evidence that resulted in the error and evidence to support the need for the procedural revocation;
(c) The opportunity to be heard in person and present witnesses and documentary evidence;
(d) The right to confront and cross-examine witnesses and documentary evidence asserting an erroneous release;
(e) A "neutral and detached" hearing body; and

[3] Hearing may be conducted in-person, telephonically or by videoconference. The same notice and protections afforded to prisoners at release hearings must be provided - NRS 213.131(9).

(f) A written statement by the factfinders as to the evidence relied on and the reasons for procedurally revoking parole when applicable.

Procedural Revocation Process

Initiation of Petition for Procedural Revocation

Generally, a petition for the procedural revocation of parole is initiated by the governmental entity responsible for the error resulting in an erroneous release. However, there may be instances where changes in a Judgement of Conviction or other external factors may have a negative effect on a previous parole action. In cases such as this, a parolee or representative may also petition for the procedural revocation of a parole. The steps to initiate a procedural revocation include:

5. Petitioner prepares a report with exhibits/evidence and submits the packet to the Board requesting that the Board take up the matter.
6. The Parole Board staff reviews the packet and evidence to determine whether probable cause exists to consider the petition. If the packet or evidence is not appropriate, unclear or incomplete, it is returned to the petitioner with an explanation and request to cure any defect and resubmit.
7. Once the petition and other documents are in order, the Board will:
    a. Set the hearing date, time and location;
    b. Prepare and post an agenda for the public hearing;
    c. Prepare an Order for the Parolee to Appear;
    d. Prepare a document which advises the parolee of his or her rights; and
    e. Include a copy of the petition and exhibits to the parolee with the Order to Appear.
    f. Provide the parolee's packet to the governmental entity supervising the parolee for the documents to be served and processed.
8. The Board conducts the hearing and renders a decision.

Procedural Revocation Hearing Process

A procedural due process hearing will be conducted by the Board in the same relative manner and format in which parole violation hearings are conducted. The Board or panel established in accordance with NRS 213.133(1)(a) will act as a neutral body and consider the evidence and testimony presented by the petitioner and the parolee.

Parties Present

The following parties must be present at the hearing:

4. The petitioner or the petitioner's representative, and any witnesses the petitioner may want to call;
5. The parolee, the parolee's attorney/representative (if any) and any witnesses the parolee wishes to confront or cross examine, and any witnesses called to testify for the parolee.
6. When not acting as the petitioner, a representative of the governmental entity responsible for an alleged error nexus to the need for procedural revocation.

Conduct of the Hearing

After the Board has formally established on record the purpose of the hearing and determined the relevant parties are present, the petitioner will be called on to present the case and arguments to support the petition for procedural revocation.

The petitioner will begin by submitting evidence to support the need for procedural revocation.

When the action requested by the petitioner is adverse to the parolee, the parolee and/or counsel will be permitted to cross examine any witnesses testifying in support of the petition and/or challenge the accuracy of any evidentiary documentation provided by the petitioner.

When the action requested by the petitioner is adverse to the State, the State will be permitted to cross examine any witnesses testifying in support of the petition and/or challenge the accuracy of any evidentiary documentation provided by the petitioner.

Once the petitioner has concluded, the respondent may provide evidence and testimony to support the position that is contrary to the position of the Petitioner.

Upon the conclusion of the evidentiary review, the petitioner will be asked to make a recommendation to the panel as to the requested outcome of the matter followed by the respondent's recommendation to the panel as to the requested outcome of the matter.

The Board will deliberate in private before submitting a decision on the matter and will issue a written order detailing the basis for any decision.

Forms:
Form Outline for Petition
Example of Petition/Report to Board

Petition for Procedural Revocation of Parole

Nevada Board of Parole Commissioners
Attn: Executive Secretary
1677 Old Hot Springs Rd STE A
Carson City, NV 89706

Date of Request:

From (requesting entity):
Organization Name
Mailing Address
City, State, Zip

Contact Name
Contact Email
Contact Telephone #

RE: Parolee Name, NDOC # xxxxxx

Statement of the Issue and Requested Action:
Petitioner should make a simple statement of the matter and indicate the action it requests the Board to take regarding the petition.

Statement of Case History:
Petitioner should provide a statement that details the history of the case as it unfolded.

Statement of Error:
Petitioner should provide a statement that details the error(s) that occurred, and the subsequent errors (if any) caused by the error(s).

Statement of Correction:
Petitioner should provide a statement detailing what they allege the correct history of the case should have been had the error not occurred in the first place.

Recommendation:
Petitioner should provide a statement listing the corrections(s) or action(s) it recommends the Board to take and the expected outcome from the recommended correction(s) or action(s).

Attachments:
Petitioner should include with the petition all relevant documentation demonstrating the error as well as documentation substantiating the need for a procedural revocation of parole. Examples of documents may include a copy of the judgement of conviction; any amended judgement of convictions;

parole hearing reports; parole board orders and parole agreements; copies of correspondence and/or case notes; and any other information that shows the cause of the error, if any, and the way it should be corrected.

Sample Format Outline of Petition to the Board for the Procedural Revocation of Parole

Request for Procedural Revocation of Parole

January 15, 2021

From (requesting entity):
Nevada Department of Corrections
Offender Management Division
5500 Snyder Ave
Carson City, NV 89701

John Jones, Administrator OMD
JJones@doc.nv.gov
775-887-3285

RE: Doe, John NDOC# 14095

To: Nevada Board of Parole Commissioners

Statement of the Issue and Requested Action:
John Doe # 14095 was erroneously granted parole to consecutive sentence on July 8, 2019.
The Department requests that the Parole Board procedurally revoke the erroneously granted parole.

John Doe, #14095, was granted parole on Case# 123-456 to consecutive sentence on July 8, 2019 with an effective date of October 1, 2019. After the inmate began serving the consecutive sentence, the NDOC discovered that the minimum sentence entered in NOTIS should have been 10 years rather than 5 years. Based on this the inmate was not eligible to be considered for parole until October 1, 2024. As such, the parole is erroneous.
The Department requests that the Board procedurally revoke the parole

Statement of Case History:
John Doe, #14095 was convicted of Sexual Assault (Case #123-456) on November 1, 2014 and was sentenced to a term of 5-20 with a consecutive term of 5-20 for the Use of a Deadly Weapon Enhancement with presentence credit of 30 days (Attachment 1).

On May 29, 2019, the Court issued an Amended Judgement of Conviction changing the sentence terms to 10 years minimum to 50 years maximum, with a consecutive 5-20 term for UDW (Attachment 2).

On July 8, 2019, the Parole Board held a hearing on Inmate Doe based on the inmate's eligibility determined by the November 1, 2014 JOC setting the minimum term to be 5 years.

The sentence structure that was presented to the Board at the July 8, 2019 parole hearing appeared as follows:

Lvl	S	Case#	Cnt	Offense	MIN	MAX	Retro Date	PED	MPR	PEXD	SEV
1.01	A	123-456	1	Sexual Assault	60	240	10/01/2014	10/01/2019		11/20/2024	HGST
2.01	P	123-456	1	UDW	60	240	pending	pending	pending	pending	HGST

The Parole Board granted Doe parole to his consecutive sentence effective October 2, 2019 (Attachment 3).

The May 29, 2019 Amended Judgement of Conviction was received at HDSP on August 15, 2019 but was not entered in NOTIS because of the Board's action having taken place prior to receiving the Amended JOC. The Amended JOC was forwarded to the Offender Management Division.
The Division of Parole and Probation presented inmate Doe with an institutional parole agreement which was signed on September 15, 2019. The institutional parole agreement indicated an effective date of parole on the 5-20 Sexual Assault case on October 1, 2019 (Attachment 4).

On October 1, 2019 the Sexual Assault case was placed in parole status and the CS UDW case was activated (Attachment 5, NOTIS screen shot).

Statement of Error:
On November 12, 2019, the OMD division discovered that a request for rescission of the previously granted parole had not been forwarded to the Parole Board. This late discovery resulted in the inmate erroneously being placed into parole status.

Statement of Correction:
Based on the Amended JOC, the inmate's sentence structure should have appeared as follows:

Lvl	S	Case#	Cnt	Offense	MIN	MAX	Retro Date	PED	MPR	PEXD	SEV
1.01	A	123-456	1	Sexual Assault	120	600	10/01/2014	10/01/2024		11/20/2048	HGST
2.01	P	123-456	1	UDW	60	240	pending	pending	pending	pending	HGST

Recommendation:
The Parole on the Sexual Assault Case # 123-456 needs to be procedurally revoked so the NDOC may correct the sentence term based on the May 2019 Amended JOC. This will allow the inmate to serve the minimum term set forth in the Amended JOC and the Board can consider the inmate when he is eligible in 2024.

Attachments:

Attachment 1: Original Judgement of Conviction on Case #123-456 dated November 1, 2014.
Attachment 2: Amended Judgement of Conviction on Case #123-456 dated May 29, 2019.
Attachment 3: Parole Board order dated July 8, 2019 granting parole on Case #123-456 effective October 1, 2019.
Attachment 4: Institutional parole agreement on Case #123-456 effective October 1 2019.
Attachment 5: NOTIS Screen Shot showing the Sexual Assault case was placed in parole status and the CS UDW case having been activated.

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Appendix 2

Parole Violations and Sanctions

Nevada Board of Parole Commissioners

This document was developed to provide information regarding the Nevada Parole Board's response to alleged violations and is not all inclusive. The information appearing in this document is for general informational purposes only and is not intended to provide legal advice to any individual or entity. The creation of this informational document is not intended to establish a cause of action or a basis to overturn the outcome of a parole violation hearing if strict adherence is not followed. This document has not been approved as policy by the Board and may be revised from time to time without notice. This document was prepared by David M. Smith, Parole Hearings Examiner II. Questions or concerns regarding its contents may be directed to dmsmith@parole.nv.gov or 775-687-6506.

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Parole Violations and Sanctions

Parole violation (PV) hearings are conducted in two parts: (1) determine whether a violation occurred and (2) imposition of a sanction if the Board determines a violation did occur. The discretionary and mandatory sanctions related to findings of guilt and revocation are complex. This document describes the types of violations and their possible corresponding sanctions. Policies and procedures pertaining to the conduct of a parole violation hearing are not included in this document.

Types of Parole Violations

The Legislature codified language during the 2019 Session to delineate what constituted a technical violation of parole. They also narrowed the sanctions that may be imposed by the Board when a parolee is found guilty of a technical violation of parole.

Parole violations are categorized as:

- Technical Violations
- Absconding
- New Crimes

While these categories appear to be straightforward, they can be somewhat misleading as technical violations may include convictions for many non-violent misdemeanors and absconding no longer automatically includes leaving the State without permission[4].

Technical Violations of Parole

"Technical violation" means[5] any alleged violation of the conditions of parole that does not constitute absconding. The termination from a specialty court program is not considered a technical violation of parole. Furthermore, a technical violation does not include the commission of a:

- New felony or gross misdemeanor;
- Domestic Violence pursuant to NRS 200.485;
- Driving under the influence of drugs or alcohol pursuant to NRS 484C.110 and NRS 484C.120;
- A misdemeanor crime of violence as defined in NRS 200.408 (a crime involving the use or threatened use of force or violence against the person or property of another);
- Harassment pursuant to NRS 200.571, or stalking or aggravated stalking pursuant to NRS 200.575;
- Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an

[4] Leaving the State without permission can constitute absconding in certain circumstances.
[5] NRS 213.1519(5)(b)

action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

- Violation of a stay away order involving a natural person who is the victim of the crime for which the parolee is being supervised.

New Crimes

New crimes include felony convictions, gross misdemeanor convictions and the crimes specified in NRS 213.1519(5)(b).

Absconding Defined

"Absconding" means[6] that a person is actively avoiding supervision by making his or her whereabouts unknown to the Division for a continuous period of 60 days or more.

Temporary Revocation of Parole

Subsection 4 of NRS 213.1519 governs the length of imprisonment when parole is temporarily revoked for the commission of a technical violation as follows:

4. If the Board finds that the parolee committed one or more technical violations of the conditions of parole, the Board may:

(a) Continue parole supervision;

(b) Temporarily revoke parole supervision and impose a term of imprisonment of not more than:

(1) Thirty days for the first temporary parole revocation;

(2) Ninety days for the second temporary parole revocation; or

(3) One hundred and eighty days for the third temporary parole revocation; or

(c) Fully revoke parole supervision and impose the remainder of the sentence for a fourth or subsequent revocation.

Credit Forfeiture

A temporary revocation of parole does not result in the forfeiture of Stat credits earned in prison and parole; however, the Board may affirmatively order the forfeiture of any number of Stat credits the parolee earned while on parole by virtue of a finding them guilty[7] of violating one or more parole conditions.

Commencement of a Temporary Revocation

NRS 213.1519(4) does not address whether the days spent in-custody prior to a violation hearing should be credited toward the imprisonment sanction of a temporary revocation. A parolee is still considered

[6] NRS 176A.630(5)(a)
[7] NRS 213.1518

on parole until such time as they are revoked even though they may be confined. During the pre-hearing confinement, the parolee is still receiving credit against their sentence.

Since the legislature did not specify that pre-revocation in-custody time be credited toward any imprisonment time on a temporary revocation, and a temporary revocation would not begin until the Board adjudicates the charges, it appears that the maximum length of time that may be imposed for a temporary revocation would begin on the date the Board temporarily revokes parole.

Length of Temporary Revocation may be Less than the Maximum Period

Ideally, parole violators are scheduled to be heard at the first opportunity after their return to NDOC custody[8]. The timing of the date of return, the number of pending violation cases and the housing location may affect how soon a violator might be scheduled for a hearing. The Board has the discretion to consider the amount of time an alleged parole violator spends in-custody prior to the violation hearing when setting a reinstatement date. A temporary revocation with a one-day or same day reinstatement is permitted.

Escaped Prisoners & Absconders

NRS 213.15185 states a parolee who leaves the State without permission from the Board, or who does not keep the Board informed as to his or her location as required by the conditions of his or her parole shall be deemed an *escaped prisoner*[9] and arrested as such. The time a person is an *escaped prisoner* is not time served on his or her term of imprisonment.

> **NRS 213.15185 When paroled prisoner deemed escaped prisoner; loss of credits for good behavior; service of unexpired term of imprisonment.**
> 1. A prisoner who is paroled and leaves the State without permission from the Board or who does not keep the Board informed as to his or her location as required by the conditions of his or her parole shall be deemed an escaped prisoner and arrested as such.
> 2. Except as otherwise provided in subsection 2 of NRS 213.1519, if parole is lawfully revoked and the parolee is thereafter returned to prison, the parolee forfeits all previously earned credits for good behavior earned to reduce his or her sentence pursuant to chapter 209 of NRS and shall serve any part of the unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board.
> 3. Except as otherwise provided in subsection 2 of NRS 213.1519, the Board may restore any credits forfeited pursuant to subsection 2.
> 4. Except as otherwise provided in NRS 213.15187, the time a person is an escaped prisoner is not time served on his or her term of imprisonment.

Subsection 2 of NRS 213.15185 appears to imply that the Board can revoke parole and cause the forfeiture of all stat time[10] simply by virtue of making a determination that a parolee is an escaped prisoner – for example, changing residence without permission or simply crossing the state line for a

[8] NRS 213.1517 requires the Board to consider the violations within 60 days of the alleged violators return to NDOC custody. If the parolee is pending new charges, the board may defer consideration until not more than 60 days after their return following the final adjudication of the new charges.
[9] Escaped prisoner is defined in NRS 213.15185
[10] Credits for good behavior

weekend without permission appears to be sufficient to violate the parolee and deem him or her an escaped prisoner for that weekend.

However, the amendments to NRS 213.1519 narrowed the Board's discretion when responding to violations and therefore affects this section. In order for the Board to fully revoke a parolee who violates by leaving the State without permission or "..who does not keep the Board informed as to his or her location…," the parolee would need to meet the minimum criteria for revocation in accordance with NRS 213.1519.

There has been a longstanding practice for determining the exact dates or timeframes an *escaped prisoner* is not entitled to time served. The "stop" date has been the date the warrant was signed by the Board when the parolee's whereabouts are unknown. The "re-start" date has been based on knowing the whereabouts of the parolee charged with a violation of reporting or leaving the state without permission as follows:

- The date the parolee was arrested in the State of Nevada; or
- In the case when a parole leaves the state without permission, the date in which the parolee is being held solely on Nevada's parole violation warrant after being arrested in a foreign jurisdiction.

Based on the plain language of NRS 213.15185(1), if a violation report included charges related to not knowing the whereabouts of a parolee for a period of time that is less than 60 days[11], theoretically the Board could determine that the parolee was an *escaped prisoner* and require that the duration of that time not be credited against the sentence. While it would be difficult to ensure consistency in applying such a practice without clear rules to determine start and stop dates outside of the warrant/arrest dates, there are scenarios that could occur that would allow for an arrest of a parolee as an *escaped prisoner* prior to the parolee being considered an absconder.

A process could be established for the Board to consider the disallowance of *escaped prisoner* time during the Division's graduated sanctions process, however, with the new codified definition of absconding, the determination of whether a parolee is deemed an *escaped prisoner* may be best distinguished by two violation events:

- Leaving the State without Permission; and/or
- Absconding (as defined in NRS 176A.630).

Absconding vs Escaped Prisoner

Prior to July 1, 2020, the term *absconding* was used interchangeably with the status of a parolee who is deemed an *escaped prisoner*. The 2019 Legislature codified a new definition of *absconding* and

[11] For example, the parolee moves residences without permission and the Division is unable to locate the parolee for a period.

established criteria and potential sanctions that now differs from the criteria and potential sanctions of a parolee who is deemed an *escaped prisoner.*

There are circumstances that could now arise resulting in a parolee being deemed an *escaped prisoner* but not be deemed an *absconder*. However, a parolee who is adjudicated an *absconder* would always be considered an *escaped prisoner* during the absconding period.

In order to ensure the proper sanctions and/or credit losses are administered when applicable parole violations are adjudicated, the Board must determine the circumstances and affirmatively apply the correct result.

As previously stated, *absconding* means that a person is actively avoiding supervision by making his or her whereabouts unknown to the Division for a continuous period of 60 days or more.

Effect of Being Adjudicated as an Escaped Prisoner who is not an Absconder

While "escaped prisoners" are generally prosecuted for Escape, parolees have not (at least in recent history), been prosecuted for Escape when their conduct on parole meets the statutory definition of *escaped prisoner* in NRS 213.15185.

An *escaped prisoner* is not entitled to credit earnings against their sentence during the time they are an *escaped prisoner.* An *escaped prisoner* who is <u>not</u> an *absconder* <u>is</u> subject to graduated sanctions and temporary revocation restrictions unless they are deemed an *escaped prisoner* on their 4th or subsequent temporary revocation.

For example, if a parolee leaves the state without permission but returns before meeting the statutory definition of being an absconder, absent other qualifying revocation misconduct, the act of leaving the state without permission for less than 60 days would constitute a technical violation of parole subject to graduated sanctions and temporary revocation restrictions. In this case, the Board could order[12] that the time the parolee was outside the State of Nevada not be credited against his sentence.

Effect of Being Adjudicated as an Absconder

Absconding is not considered a technical violation subject to temporary revocation restrictions. However, the Board is not prohibited from continuing parole or reinstating parole on a future date if a parolee is found guilty of absconding.

If an absconder is revoked, the parolee forfeits[13] all stat credits[14] previously earned on their sentence. The Board can revoke parole for periods up to 3 years, or 5 years if ten or more years are remaining on the sentence[15]. An *absconder* is <u>also</u> considered an *escaped prisoner* and is not entitled to credit for time served on his or her sentence during the period the parolee was avoiding supervision.

[12] The parolee would be entitled to a hearing if the Board were to consider such a forfeiture.
[13] The Board may restore any credits that were forfeited upon revocation pursuant to NRS 213.1519(1)
[14] Credits forfeited include those Stat credits earned in prison and on parole pursuant to NRS 213.1519(1)(a)
[15] NRS 213.142 –Board policy currently allows a denial length of more than 3 years only to qualifying sentences for

Other Considerations

Setting Stop and Restart Dates for Escaped Prisoners

As mentioned in this report, the Board has historically used the warrant date as the "stop" date, and the arrest date as the "re-start" date when adjudicating violations that included *escaped prisoner* credit disallowances.

With the new requirement that 60 consecutive days of supervision avoidance pass before a parolee may be considered an absconder, the Board may want to consider setting the "stop" date for *escaped prisoner* time to be equal to (but no more than) 60 days prior to the date of a warrant that alleges the parolee has absconded.

Stop and start dates applied when a parolee has not kept the Board informed as to his or her location or has left the state without permission for less than 60 days should be based on evidence presented by the Division at a parole violation hearing. Since the Division is required to use a system of graduated sanctions prior to requesting a warrant, it may be appropriate to establish a process that would allow the Board to adjudicate a technical violation pertaining to *escaped prisoner* time for the purpose of *escaped prisoner* time forfeiture without imposing a sanction beyond a graduated sanction imposed by the Division.

Effect of Prior Revocations on Violations Adjudicated after July 1, 2020

The definition of a technical violation and limits on the length of revocation did not exist in statute prior to July 1, 2020. Since temporary revocations did not exist prior to July 1, 2020, any revocations that may have occurred prior to July 1, 2020 should not be considered when determining which temporary revocation applies to a violation.

Also, the legislature did not establish a "reset" time between temporary revocations. While it is not an issue at this time, in the future, parolees serving lengthy sentences could serve years between technical violations yet be subject to longer imprisonment sanctions for subsequent minor violations.

To encourage long-term compliance, the Board may want to develop a policy allowing temporary revocations to reset to zero after a specific period of compliance on parole.

Effect of Re-Release after Revocation

Another area not addressed by the Legislature is whether the number of temporary revocations resets after a prisoner is re-released on parole after having been fully revoked. This is another area the Board may want to look at with respect to developing a policy for affected parolees.

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offenses committed on or after July 1, 1995.

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Appendix 3

Sentence Credit Earnings & Forfeitures and their Effect on Parole Eligibility and Sentence Discharge Dates

Nevada Board of Parole Commissioners

This document was developed to provide basic information regarding sentence credit earnings and forfeitures for the Nevada Parole Board. The Nevada Department of Corrections (NDOC) has the statutory responsibility to calculate eligibility and expiration dates based on the various credits that may be applied to sentences in accordance with NRS 209. The information appearing in this document is for general informational purposes only and is not intended to provide legal advice to any individual or entity. The creation of this informational document is not intended to establish a cause of action if adherence is not followed. This document has not been approved as policy by the Board or the NDOC and may be revised from time to time without notice. This document was prepared by David M. Smith, Parole Hearings Examiner II. Questions or concerns regarding its contents may be directed to dmsmith@parole.nv.gov or 775-687-6506.

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Credit Earnings, Credit Forfeiture and Effect on Parole Eligibility and Sentence Discharge Dates

Prisoners earn a variety of credits while serving a sentence in custody. Parolees can also earn a variety of credits while on parole. Parole eligibility and sentence discharge dates are calculated using assumptions that prisoners earn a certain number of credits in addition to day-for-day time.

Prisoners can forfeit certain credits if they are found guilty of violating provisions of the Code of Penal Discipline. Adjustments to eligibility and discharge can also occur when a prisoner doesn't earn the credits they were projected to earn, or when they earn more credits than projected.

Parolees also earn and can lose previously earned credits for violating parole and being revoked. Some credits are forfeited in the discretion of the Board and others by statute based on the action of the Board. The Board has discretion to restore credits in most circumstances but is prohibited from restoring credits in others.

This document explains the credits than can be earned and how sentence credit earnings and forfeitures affect various eligibility and discharge dates.

Credits Earned in Prison

When a sentence is imposed, the prisoner must serve and earn the total number of days representing the length of the sentence. For example, a 3-year sentence equates to 1,095 days. A 10-year sentence equates to 3,650 days.

In addition to each calendar day a prisoner serves on his/her sentence, most prisoners can earn credits to reduce their maximum and minimum sentence. The day-to-day calendar time a prisoner serves ("flat time") is also considered a "credit" for purposes of calculating time. Since a "credit" represents a "day," the sentence is completed when the prisoner has served and earned the total number of days of the sentence imposed.

There are numerous credits laws that may be applied to sentences based on the offense or sentence date. Information in this document is limited to the current[16] credit laws applied to prisoners sentenced for a crime committed on or after July 17, 1997 (NRS 209.4465).

The types of credits prisoners may earn while in prison include:

[16] Current as of June 18, 2020

Flat Time = The day-to-day calendar time a prisoner is incarcerated, on residential confinement, or assigned to the custody of Parole and Probation for a reentry court program[17] or a correctional program[18]. Each "flat" credit represents a single calendar day a prisoner serves.

Stat Credits[19] = 20 credits each month for good behavior ("…who has no serious infraction of the regulations of the Department…"). Stat credits are prorated for partial months of incarceration.

Work Credits[20] = 10 credits each month for work or study ("…diligence in labor and study…"). Work credits may be prorated for partial months.

Camp Work Credits[21] = 10 credits each month while assigned to a restitution center, conservation camp or a work release program. This is not a separate category in the NDOC system, and these credits are combined with work credits when the offender is assigned to applicable facilities.

Educational Achievement Credits[22] = Prisoners can earn the following credits for making educational achievements as follows:

- 60 credits = For earning an educational development certificate or equivalent document.
- 90 credits = For earning a high school diploma;
- 120 credits = For earning his or her first associate degree; and
- 90 credits = For each additional degree of higher education earned by an offender.

Meritorious Credit[23] = The Director of Corrections may award up to 90 merit credits each year for an offender who engages in exceptional meritorious service.

Credits Earned on Parole

Parolees can earn various credits while on parole, and credit earnings can vary based on the offense, sentence and release date. This section pertains to the most common parole credit earnings which is based on Stat credits earned by prisoners sentenced after June 30, 1991, and work/fiscal credits for prisoners on parole or released on parole on or after January 1, 2004.

Parole Stat Credits[24] = 10 credits each month for good behavior ("…no serious infractions of the terms and conditions of his or her parole or the laws of this state…").

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[17] Reentry court program pursuant to NRS 209.4886
[18] Correctional program pursuant to NRS 209.4888
[19] NRS 209.4465(1)
[20] NRS 209.4465(2)
[21] NRS 209.4465(4)
[22] NRS 209.4465(3) and NRS 209.4465(2)(a, b & c)
[23] NRS 209.4465(5)
[24] NRS 209.447(2)

Parole Fiscal Credits[25] = 20 credits each month for being current with fees and restitution ("…current with any fee to defray the costs of his or her supervision charged by the Division…" and "…current with any payment of restitution required by the State Board of Parole Commissioners…").

Parole Work Credits[26] = 10 credits each month for work ("Whose diligence in labor or study merits such credits.").

How Credits are Applied to a Sentence

Historical Review

The way sentences are imposed by the Courts in Nevada has changed over time. For a period prior to 1995, courts would impose a maximum sentence and the parole eligibility date would be established when 1/3 of the sentence was served. Prior to the "1/3rd law," certain prisoners earned credits based on a complicated varying schedule that awarded either 5, 10 or 12.5 credits each month depending on the amount of time the prisoner had served.

Senate Bill 416 of the 1995 Legislative Session, also known as "truth in sentencing," changed sentencing laws and required courts to impose a minimum sentence and a maximum sentence. The minimum term could not exceed 40% of the maximum term. From 1995-2007, sentence credits would only reduce the maximum term and prisoners were required to serve their entire minimum term before becoming eligible for parole.

As Nevada's prison population grew by over 60% from a total of 7,713 prisoners at end of year 1995 to 12,839 in 2006, the Nevada Legislature made changes to the laws enacted from SB416 to control the rising prison population. Assembly Bill 510 passed during the 2007 session made major changes to credits that could be applied to prisoner sentences including:

- Doubled the amount of Stat credits prisoners could earn (from 10 per month to 20 per month);
- Allowed credits to reduce the minimum terms of lower level offenses; and,
- Allowed the application of the additional monthly Stat credits (20) to be applied to the minimum and maximum sentences of most prisoner sentences retroactively back to July 17, 1997.

AB 510 helped stabilize the growth of the prison population to under 10% between 2006 and 2016, a dramatic reduction in comparison to the previous 11 years' growth of 60%.

Applying Credits to Sentence Minimum and Maximum Terms

The calculation of eligibility and expiration dates on sentences can be exceptionally complicated. The following explains and illustrates the application of credits to time periods in order to provide a basic understanding of how eligibility and expiration dates are calculated.

[25] NRS 209.4475(1)
[26] NRS 209.4475(3)

Invention of Sentence "Credits"

It would be easy to explain parole eligibility if prisoners served the sentences imposed by the Courts. A prisoner sentenced to 1 year in jail on February 1st would expire the next year on January 31st. At one time, this was exactly how sentences were executed. But over time, legislatures devised ways to provide relief to the rising costs of incarceration by establishing methods to encourage rehabilitation and population reduction by awarding credits against a sentence.

Actual Credits Versus Projected Credits

Actual credits are those credits that the prisoner has earned at any point in time. Projected credits are credits the NDOC assumes a prisoner will earn, in addition to flat time, that will reduce the remaining balance of days owed on a sentence to zero.

If the prisoner earns the credits the NDOC has projected the prisoner will earn, the expiration date won't change.

If a prisoner does not earn all credits that were previously projected, the expiration will move out to a later date.

If a prisoner earns, or is projected to earn, more credits than previously projected, the sentence dates will change to reflect an earlier projected expiration date. This is common when a prisoner moves from a medium custody location to a camp or restitution center.

Effect of the Award of Merit Credits on Projected Sentence Expirations

Probably the biggest complaint employees receive regarding credit awards is when a prisoner receives a large number of merit credits (for example 90 credits), but the sentence expiration only changes by approximately half the award (45 days).

The reason this occurs is because projected credit earnings have already been calculated on the sentence and applying the merit award reduces the amount of time remaining on the sentence for projected credits to be applied against.

In other words, since a prisoner generally earns 60-70 credits per month (30/31 flat, 20 Stat and 10 or 20 work), the merit award takes away the prisoner's ability to earn the originally projected Stat and work time. When this happens, the prisoner isn't losing any time, he has just earned the time differently.

The following charts show how this occurs.

CHART 1: If the prisoner served the entire sentence day for day without credits starting on January 1, he would expire December 31.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOT	
Flat	31	28	31	30	31	30	31	31	30	31	30	31	365	
Cumulative	***31***	***59***	***90***	***120***	***151***	***181***	***212***	***243***	***273***	***304***	***334***	***365***		

CHART 2: If the prisoner earned 20 Stat credits each month, and 10 work credits each month, he would expire on July 2nd

	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
Flat	31	28	31	30	31	30	2	183
Stat	20	20	20	20	20	20	1	121
Work	10	10	10	10	10	10	1	61
Total	***61***	***58***	***61***	***60***	***61***	***60***	***4***	***365***
Cumulative	***61***	***119***	***180***	***240***	***301***	***361***	***365***	

CHART 3: Using the same example in chart 2, if the prisoner earns 90 merit credits on April 1st, he would expire on May 18th, or 45 days earlier than the July 2nd date.

	Jan	Feb	Mar	Apr	May	Total
Flat	31	28	31	30	18	138
Stat	20	20	20	20	11	91
Work	10	10	10	10	6	46
Merit				90		90
Total	***61***	***58***	***61***	***150***	***35***	***365***
Cumulative	***61***	***119***	***180***	***330***	***365***	

In Summary, you can generally estimate the "flat time" reduction effect of a lump sum merit credit award on a projected expiration date by deducting half the number of merit credits from the pre-award projected expiration date. Since prisoners earn more credits while at a camp, the net "flat time" reduction effect of a merit award would be slightly less (approx. 45% of the number of merit credits rather than 50%).

Effect of Credit Losses on Sentences

Prisoners can lose Stat credits they have earned for committing certain infractions of the NDOC penal code. Prisoners can also lose credits if they commit a parole violation or are revoked off parole. The following chart shows a prisoner serving a 3-year term (365*3=1095 days) with credits earned in prison and on parole who was revoked but did not lose any Stat credits. The prisoner would expire after serving 505 flat days, or approximately 16 months on the 36-month term.

Released to Parole on June 1, Revoked on August 1 - no loss of credits

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	**May**	Total
Flat	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	**20**	505
Stat	20	20	20	20	20			20	20	20	20	20	20	20	20	20	13	293
Work	10	10	10	10	10			10	10	10	10	10	10	10	10	10	7	147
Merit				90														90
Parole Stat						10	10											20
Fiscal Credits						20	20											40
																		0
Month Total	61	58	61	150	61	60	61	61	60	61	60	61	61	58	61	60	40	1095
Cumulative	61	119	180	330	391	451	512	573	633	694	754	815	876	934	995	1055	**1095**	

In the above example, the prisoner earned 100 Stat credits while in prison from January-May, then earned 20 Stat credits on parole in June and July for a total of 120 credits. The above example doesn't show a loss of credits, but If the prisoner was revoked on August 1st and the Board ordered the forfeiture of all Stat credits earned prior to revocation, the net Stat loss would be 120 credits.

This would not result in the prisoner serving 120 additional days though. The following chart shows the effect of the forfeiture of 120 credits on the prisoner's sentence. The forfeiture pushes the expiration date from May 20th to July 18th or a total of 59 more days in prison as a result of the 120-credit loss. The reason it is ½ of the time is because the prisoner will earn Stat and work credits while serving the 120 credits of forfeited time.

Released to parole on June 1, revoked on August 1 - lost all previously earned Stat time.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
Flat	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	18	564
Stat	20	20	20	20	20			20	20	20	20	20	20	20	20	20	20	20	15	335
Work	10	10	10	10	10			10	10	10	10	10	10	10	10	10	10	10	6	166
Merit				90																90
Parole Stat						10	10													20
Fiscal cred.						20	20													40
credit loss								-120												-120
Month Tot.	61	58	61	150	61	60	61	-59	60	61	60	61	61	58	61	60	61	60	39	1095
Cumulative	61	119	180	330	391	451	512	453	513	574	634	695	756	814	875	935	996	1056	1095	

In Summary, you can generally estimate the "flat time" increase effect of a lump sum credit loss on a projected expiration date by adding half the number of forfeited credits from the pre-loss projected expiration date. Since prisoners earn more credits while at a camp, the net "flat time" increase effect of a Stat loss would be slightly less (approx. 45% of the number of credits lost rather than 50%).

Effect of Credits on the Calculation of the Mandatory Parole Release Date (NRS 213.1215)

The Parole Board receives occasional complaints alleging the "late" release of prisoners on Mandatory Parole. The confusion on the actual release date occurs because of projected credit earnings and specific language in the Mandatory Parole statute.

Subsection 1 of NRS 213.1215 requires the Board to release certain prisoners on parole "*12 months before the end of his or her maximum term… …as reduced by any credits the prisoner has earned to reduce his or her sentence…*".

Subsection 1 means that once a prisoner has served and earned all but 365 days, he must be released on Mandatory Parole.

Subsection 10 of NRS 213.1215 states: "*For the purposes of this section, the determination of the 12-month period before the end of the prisoner's term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled*."

When this section of statute was first enacted in 1987, it specified 9 months rather than 12 months. At that time, parolees did not earn credits on parole, so it was a true 9 months of parole supervision. Since a prisoner would expire a prison term sooner that 9 months because of credit earnings, subsection 10[27] was intended to clarify the distinction between 9 months of parole time and approximately 6 months of prison time.

[27] Subsection 10 in 2020 was subsection 6 in 1987.

In 1991 the Legislature passed a law allowing Stat credits to be earned while on parole and also changed the MPR statute to indicate release prior to expiration from 9 months to 12 months. The 1991 changes resulted in a general equalization between the amount of time an offender would serve in the community on mandatory parole supervision, or in prison if MPR was denied.

Since 1991, there have been additional changes to credit earnings to sentences served in prison and on parole. These additional credits results in the calculation of the MPR date (when 365 days are remaining on a sentence) to be approximately 6 months before discharge in prison or on parole.

Authority Regarding the Forfeiture, Restoration and Awarding of Credits

The only types of credits subject to forfeiture by the Board are Stat credits earned in prison and on parole. Stat credits earned while on parole are subject to forfeiture if the Board finds that a parolee violated a condition of parole. Stat credits earned in prison and parole are forfeited upon revocation, with the restoration subject to the type of parole being served (discretionary or MPR) and the basis of the violation itself.

Forfeiture of Stat Credits Earned on Parole

A parole violation hearing is a two-step process. 1) The determination of whether a violation occurred and 2) the sanction imposed by the Board if a violation occurred.

When the Board finds a parolee guilty of violating a condition of parole, the Board may order that the parolee forfeit all or part of the Stat credits earned while on parole.

> **NRS 213.1518 Effect of violation of condition of parole, forfeiture and restoration of credits for good behavior.**
>
> 1. If a parolee violates a condition of his or her parole, the parolee forfeits all or part of the credits for good behavior earned by the parolee pursuant to chapter 209 of NRS after his or her release on parole, in the discretion of the Board.
> 2. A forfeiture may be made only by the Board after proof of the violation and notice to the parolee.
> 3. The Board may restore credits forfeited for such reasons as it considers proper.
> 4. The Chief shall report to the Director of the Department of Corrections any forfeiture or restoration of credits pursuant to this section.

The forfeiture of Stat credits earned on parole are not subject to any statutory limitations with respect to the type of violation or type of parole. Once the Board finds a parolee guilty of a violation (including a technical violation), the Board has the authority to order (or not to order) the forfeiture of any Stat credits earned on parole.

Revocation of Discretionary Parole and Forfeiture of Stat Credits Earned in Prison

When a discretionary parolee is revoked, the parolee forfeits all the credits for good behavior (Stat credits) earned in prison and on parole[28]. The Board may restore any amount or combination thereof of the number of credits that are automatically forfeited upon revocation. The Board should affirmatively indicate on its order revoking parole the number of credits restored (indicate none, all or a specific number).

As explained earlier in this document, the "net" effect of credit forfeitures generally results in 1 additional calendar day in prison for every 2 credits forfeited.

A "temporary revocation" is not considered a "revocation" for the purposes of the forfeiture of Stat credits earned in prison.

Revocation of Mandatory Parole and the Forfeiture of Stat Credits Earned in Prison

There are two types of releases under Mandatory Parole. Subsection 1 of NRS 213.1215 pertains to the release of a prisoner on parole generally when 12 months are remaining on their sentence of 36 months or more (that is less than life). Subsection 2 of NRS 213.1215 pertains to prisoners who were under the age of 16 at the time they committed their offense that resulted in a life sentence.

A parolee released pursuant to subsection 1 of NRS 213.1215 who is revoked for committing a new felony forfeits all the Stat credits they have earned to reduce their sentence, must serve the balance of that sentence and may not be released on parole again on that sentence[29]. The Board does not have the authority to restore credits that have been forfeited to a parolee released under MPR subsection 1 when the revocation was the result of the parolee having been convicted of a new felony[30]. The Board has the authority to restore credits that have been forfeited upon revocation for any other violations.

> **NRS 213.1519**
> 2. A parolee released on parole pursuant to subsection 1 of NRS 213.1215 whose parole is revoked for having been convicted of a new felony:
> (a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;
> (b) Must serve the entire unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence; and
> (c) May not again be released on parole during his or her term of imprisonment.

The penalties for a parolee released pursuant to subsection 2 of NRS 213.1215 who is revoked for any reason fall under the same provisions related to the revocation of a parolee released under

[28] NRS 213.1519(1)

[29] NRS 213.1519(2)

[30] Subsection 2 of NRS 213.1519 does not include the statement "*the Board may restore any credits forfeited under this subsection"* as it does in subsections 1 and 3 of NRS 213.1519.

discretionary parole. However, a prisoner released under the MPR provisions of subsection 2 who has been revoked is no longer subject to the provisions of subsection 2 of NRS 213.1215 when considered for parole release in the future. Prisoners who were initially eligible under the mandatory provisions of subsection 2 of NRS 213.1215 who are later revoked become subject to the provisions for release in the discretion of the Board[31] with maximum rehearing dates of 3 or 5 years.

NRS 213.1519

3. A parolee released on parole pursuant to subsection 2 of NRS 213.1215 whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his or her conduct:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve such part of the unexpired maximum term or maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board; and

(c) Must not be considered again for release on parole pursuant to subsection 2 of NRS 213.1215 but may be considered for release on parole pursuant to NRS 213.1099, with rehearing dates scheduled pursuant to NRS 213.142.

➥ The Board may restore any credits forfeited under this subsection.

Restoration of Forfeited Stat Credits

When a parolee is revoked, all the Stat credits that reduced their sentence while in prison and on parole are forfeited. Except for a parolee released on MPR who is convicted of a new felony and revoked, the Board has the discretion to restore all or part of the Stat time that was forfeited. The restoration of forfeited credits may take place immediately following revocation at the parole violation hearing, or later when the prisoner has shown good cause to do so. The Board currently requires a request for restoration include a favorable recommendation from the NDOC.

[31] These prisoners become subject to being reheard by the Board in accordance with NRS 213.142.

State of Nevada Board of Parole Commissioners
Waiver of Right to Counsel at Parole Violation Hearing

I, _____, am aware of my right to be assisted and represented by an attorney at the parole violation hearing and may be represented by a private attorney of my choice at my expense, or a public defender if indigent. I understand that not having an attorney may affect the outcome of this hearing; and, if I am found guilty of violating my parole, it may result in my incarceration. I wish to waive my right to an attorney at this hearing.

I understand that my constitutional rights include the following:

A. I understand that I have the right to subpoena witnesses that I may need in my defense.
B. I understand that I have the right to confront all witness who will be called to testify against me, and I have the right to cross-examine those witnesses.
C. I understand that I cannot be compelled to testify unless I so desire.
D. I understand that I have the right to testify and to produce evidence on my own behalf.
E. I understand that I have a right to act as my own attorney and may waive my right to the assistance of an attorney.
F. I further understand that if I am permitted to represent myself, I will have to conduct my own defense without the assistance of an attorney.

Initial _____

I understand that there are numerous disadvantages to representing myself, including, but not limited to the following:

A. I understand that if I had a lawyer, that lawyer would be able to investigate my case and advise me as to my options.
B. I understand that if I am permitted to represent myself it will be necessary for me, without the assistance of an attorney, to prepare my own defense without the advice of a lawyer, do my own research, and conduct my own investigation.
C. I understand the case against me will be handled by an officer who is experienced in violation proceedings.
D. I understand that I will not be entitled to special consideration or assistance by the Board and that the rules of law will not be set aside because I represent myself.
E. I understand that if I am permitted to represent myself, it will be necessary for me, without the assistance of any attorney, to defend myself, including, but not limited to making an opening statement, cross-examining the witnesses, subpoenaing and presenting my own witnesses, and making any final argument.
F. I understand that I may waive constitutional, statutory, and common law rights unknowingly and that I may, in effect, conduct a defense which is ultimately to my own detriment.
G. I understand that if I am in custody, it may be difficult for me to contact witnesses and investigate my case. I understand that I will have limited access to a telephone, to legal research and to legal information which may make preparations for my defense more difficult.
H. I understand that this Board advises and recommends that I accept an appointed attorney. The Board has advised me to not act as my own attorney.
I. I understand that the results of the violation hearing may range from immediate reinstatement to revocation of parole to the maximum time allowed per Nevada Revised Statutes for the underlying conviction depending upon the seriousness of the violation(s).

Initial _____

I have read and fully understand all the information set forth above. I understand all the warnings, and still wish to represent myself in this matter. I freely and voluntarily give up my right to have an attorney represent me. I choose to represent and defend myself without a lawyer.

_____	_____	_____
DATE	PAROLEE SIGNATURE	NDOC #