Nevada Board of Parole Commissioners

Parole Hearing Participation & Testimony
For Victims, ~~and~~ Supporters, and Others

Revised October 20, 2021

This document was developed to provide information regarding the general parole hearing process with respect victims and supporters attending parole hearings in Nevada and may not be 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. With the exception of those rights or procedures specifically enumerated in the Nevada Constitution or the Nevada Revised Statutes, the Board reserves the right to alter procedures contained herein as necessary to ensure order and efficiency during hearings. The establishment of this informational 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 may be revised from time to time without notice.

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CONSTITUTION AND STATUTORY DEFINITIONS – VICTIMS RIGHTS

This document provides specific information relative to the rights of victims in parole hearings in Nevada. It also provides general information regarding the parole hearing process and specific information relative to testimony by victims and supporters at parole hearings.

Certain victim information in Nevada is confidential by statute. Parole hearings are open to the public[1]. In an effort to balance the need to protect personal victim information in a public forum, this document will also assist victims in making informed decisions regarding participation in parole hearings.

The Nevada Constitution defines a victim as:

> **"…Any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf…"**

Nevada Revised Statutes defines a victim as:

> **NRS 213.005**
> **3. "Victim" includes:**
> **(a) A person, including a governmental entity, against whom a crime has been committed;**
> **(b) A person who has been injured or killed as a direct result of the commission of a crime; or**
> **(c) A relative of a person described in paragraph (a) or (b).**
> **For the purposes of this paragraph, a "relative" of a person includes:**
> **(1) A spouse, parent, grandparent or stepparent;**
> **(2) A natural born child, stepchild or adopted child;**
> **(3) A grandchild, brother, sister, half brother or half sister; or**
> **(4) A parent of a spouse.**

The Parole Board considers both of these definitions when determining whether an individual is a victim.

TYPES OF PAROLE HEARINGS

The types of parole hearings discussed in this document are parole release hearings which include discretionary and mandatory parole hearings and parole violation hearings.

Discretionary Parole:

When a person is convicted and sentenced to prison, the Court will set a minimum and maximum term of imprisonment. The Department of Corrections (NDOC) calculates a parole eligibility date and a projected expiration date based on anticipated credit earnings.

[1] NRS 213.131(3)

The initial discretionary parole eligibility date is the date set by the NDOC that satisfies the minimum term imposed by the Court. If an ~~prisoner~~ inmate is granted parole at this date, he or she may not be released until on or after that date. If an ~~prisoner~~ inmate is denied parole, the Board will set a subsequent hearing date ~~for consideration under discretionary parole~~.

The Board utilizes an actuarially validated risk assessment as part of its discretionary release guidelines to assist in determining whether an ~~prisoner~~ inmate is a suitable candidate for community supervision.

Mandatory Parole:

Mandatory Parole Release (MPR) was created by the legislature to ease prison overcrowding and establish a supervised transitional period for certain offenders preparing to expire their prison term.

MPR only applies to sentences of 36 months or more that are not life terms. MPR dates are not calculated on sentences when there is a consecutive sentence to serve.

The MPR date occurs 12 months prior to the ~~prisoner's~~ inmate's projected expiration. Since ~~prisoners~~ inmates earn credits to reduce their maximum sentence, the actual MPR date is usually 5-6 months prior to a projected expiration date.

The Board also utilizes an actuarially validated risk assessment as part of its review of offenders under Mandatory Parole; however, Mandatory Parole is different from discretionary parole in that the legislature established by statute the criteria for consideration under MPR.

The Parole Board must grant Mandatory Parole unless there is a reasonable probability that the ~~prisoner~~ inmate would be a danger to public safety while on parole.

Parole Violation Hearings:

Violation hearings are due process hearings conducted when a parolee is accused of violating a condition of discretionary or mandatory parole.

ATTENDANCE & TESTIMONY AT PAROLE HEARINGS

Parole release hearings are public hearings that generally occur at one of the offices of the Parole Board (Las Vegas or Carson City) and are generally 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. ~~Prisoners~~ Inmates who are assigned to residential confinement appear in person at the Parole Board office closest to where the ~~prisoner~~ inmate resides.

Parole violation hearings are public hearings generally video conferenced to the institution where the alleged parole violator is housed. Parole violation hearings may also take place in person or via telephonic hearing directly with the alleged parole violator per the needs of the Board. Any person wishing to attend a parole violation hearing must appear in person at the designated Panel location, or prison location as an observer only ~~or by phone upon approval~~.

Parole Release Hearings - Attendance at Parole Office or Prison Location

Visitors (victims, supporters, press or other interested persons) may attend parole release hearings at either the designated Panel location or at the prison location where the ~~prisoner~~ inmate is housed. The

Board does not conduct "three-way" video hearings. ~~or allow persons to "call-in" to submit testimony~~. ~~All p~~Participation in the parole hearing process ~~must~~ should take place by attending at either the designated Panel location, ~~or~~ the ~~hearing~~ prison location where the ~~prisoner~~ inmate is housed, or if you are a victim, by phone upon prior approval. If you plan on attending the parole release hearing at the location where the inmate is housed, consult with NDOC for further guidance. If you are a victim and request to testify in person or by phone, please note that the Board cannot ensure confidentiality. In order to maintain confidentiality, the submission of written documentation is highly encouraged. If you will be testifying by phone, please contact the Parole Board office at least seven days prior to the hearing date in order to obtain hearing access information.

Violation Hearings - Attendance at Parole Board Office or Prison Location

Parole violation hearings are generally video conferenced to the institution where the alleged parole violator is housed. Parole violation hearings may also take place in person or via telephonic hearing directly with the alleged parole violator per the needs of the Board. These locations are typically prison intake centers located reasonably close to the location where the ~~prisoner~~ inmate was being supervised when the alleged violation(s) occurred. The three Nevada prison intake facilities where parole violation hearings are held are located at Northern Nevada Correctional Center (NNCC) in Carson City, Nevada; High Desert State Prison (HDSP) located in Indian Springs, Nevada; and Florence McClure Women's Correctional Center (FMWCC) located in Las Vegas, Nevada.

Visitors (victims, supporters, press or other interested persons) may attend parole violation hearings at either the designated Panel location or at the prison location where the inmate is housed with permission of the institution. The Board does not conduct "three-way" video hearings. Victim participation in the parole violation hearing process may take place by attending at either the designated Panel location, the hearing location where the inmate is housed, or by phone upon approval by the Board. If you plan on attending the parole violation hearing at the location where the inmate is housed, please consult with NDOC for further guidance.

If you are a victim and request to testify in person or by phone at a parole violation hearing, please note that the Board cannot ensure confidentiality. In order to maintain confidentiality, the submission of written documentation is highly encouraged. If you will be testifying by phone, please contact the Parole Board office at least one day prior to the hearing date in order to obtain hearing access information.

Attendees Should Identify Themselves to the Parole Board Office Staff

Visitors attending parole hearings should indicate to the Parole Board staff if they are a victim of an offender, a supporter, an interested person, or an ~~prisoners'~~ inmate's representative. A victim who is also a supporter of an offender should still identify themselves to the Parole Board as a victim. Victims are afforded certain constitutional and statutory rights whether they intend to oppose or support the release of an offender on parole and the Board affords all victims the same rights whether they oppose or support the parole of an ~~prisoner~~ inmate.

Victims attending a parole hearing at a prison location must inform the correctional staff upon arrival that they are a victim of the offender being considered for parole. This allows ~~their~~ this information to be relayed to the Board through the caseworker, so the Panel can ensure the rights afforded to victims are accommodated at the hearing location. If you are a victim and request to testify from the institution where the inmate is housed, please note that the Board cannot ensure confidentiality. In order to maintain confidentiality, the submission of written documentation is highly encouraged.

Attendance of a Victim at a Parole Hearing is not Confidential

Parole hearings are open to the public, and therefore the attendance of a victim or any other person at a parole hearing cannot be made confidential. Please note: In most cases, parole hearings are recorded and become public record, so any person in attendance, (in-person or by telephone) may be captured via audio or video. If you wish to ensure anonymity, submission of written documentation is highly recommended.

Incarcerated Victims of Crime

The Board welcomes and accepts any written submissions from victims who are incarcerated, in the same manner as any other victim who is unable to attend for any particular reason. ~~If permitted by the NDOC or other detaining jurisdiction, an inmate victim may submit prerecorded audio or video testimony on portable storage media (USB flash drive, CD, etc.) that can be played to the Panel at the applicable parole hearing.~~ The electronic submission of audio or video recordings is not permitted.

GENERAL TESTIMONY AT PAROLE RELEASE HEARINGS

Parole hearings are conducted with respect and decorum by all participants. Visitors in attendance must refrain from overtly reacting to statements made during a hearing. In most cases, parole ~~Parole~~ hearings are recorded and become public record, so any person in attendance, (in-person or by telephone) may be captured via audio or video. If you wish to ensure anonymity, submission of written documentation is highly recommended.

All public testimony must be directed to the parole hearing panel members, and not to the ~~prisoner~~ inmate or toward other persons in attendance. The Panel may terminate the testimony of a person if the testimony violates the good order and decorum of the hearing.

When appropriate, the Panel may ask questions of any person testifying at a parole hearing and may also reopen a dialog with the ~~prisoner~~ inmate following any public testimony. The Panel will not generally permit an ~~prisoner~~ inmate to respond or provide input to the Panel regarding any supporter or victim testimony.

Order of Testimony

Generally, the Parole Board Panel Members will conduct the hearing with the ~~prisoner~~ inmate and the ~~prisoners'~~ inmate's representative (if any) prior to permitting any other testimony.

Typically, once all parole hearing discussion has concluded with the inmate, one representative and/or one supporter of any supporters of the ~~prisoner~~ inmate in attendance (in the hearing room and/or at the ~~prisoner~~ inmate location) may be permitted to testify.

In most cases, upon the conclusion of any supporter testimony, any victims in attendance (in the hearing room, ~~or~~ at the ~~prisoner~~ inmate location, or by phone) will be permitted to speak on the record.

When a Victim Does Not Want to Testify Publicly

When a victim does not want to testify publicly, the victim will be allowed to submit any confidential information[2] to the Panel prior to the onset of the hearing. The Panel may provide information relative to the hearing and parole process, protection of victim information or other general information to the

[2] NRS 213.131(8)

victims at this time. Once the hearing has concluded, the Panel may explain the post hearing processes to the victims and answer any questions victims may have. ~~Information relative to the case that is not personal victim information is not permitted to be discussed privately~~. Submission of written documentation is highly recommended by the Board.

When a Victim Intends to Testify Publicly on the Record

A victim who wishes to testify publicly will be allowed to submit any information deemed confidential to the Panel prior to the onset of the hearing that they do not intend to submit publicly. In most cases, parole hearings are recorded and become public record, so any person in attendance, (in-person or by telephone) may be captured via audio or video. If you will be testifying by phone, please contact the Parole Board office at least seven days prior to the hearing date in order to obtain hearing access information.

Generally, victims will be permitted to testify at the conclusion of the hearing, after all other matters and testimony has taken place. Once a victim has testified, the hearing will generally conclude without any further comments or input unless expressly permitted by the Panel members.

Time Limits on Testimony

The Panel may limit testimony from any person to three minutes, particularly when testimony becomes repetitious or deviates from the subject at hand.

Nevada Law permits each victim of crime to testify[3] at a parole hearing. As such, the Panel will not limit the number of victims speaking at a hearing.

When multiple victims ~~are present~~ wish to testify and their testimony will be similar to each other, the Board may ask that a spokesperson represent and speak on behalf of all or most of the victims ~~in attendance~~. While time constraints may still be imposed on a spokesperson, the Panel will be more liberal with any time restrictions placed upon a victim spokesperson ~~when multiple victims are in attendance~~.

Testimony by a Victim who is also a Supporter of Parole

Victims who wish to testify in support of parole for an offender do not lose their rights as a victim. Victim-supporters will be afforded the right to testify as a victim in support of parole in accordance with the procedures set forth in this document.

Representatives Assisting Prisoners

Subsection 10 of NRS 213.131 states:

During a meeting to consider a prisoner for parole, the Board shall allow the prisoner:

(a) At his or her own expense, to have a representative present with whom the prisoner may confer; and

(b) To speak on his or her own behalf or to have his or her representative speak on his or her behalf.

Parole release hearings are informal hearings conducted generally in a question-answer format. Most ~~prisoners~~ inmates choose to represent themselves. Nevada law does not restrict representatives to licensed attorneys. ~~Prisoners~~ Inmates may ~~choose a~~ coordinate with a representative ~~family member or friend~~ to assist them, and in some cases, this may be another ~~prisoner~~ inmate. Time limits may be imposed when a representative wishes to make a more formal presentation. If an inmate's

[3] NRS 213.131(4)

representative will be testifying by phone, please contact the Parole Board office seven days prior to the hearing date in order to obtain hearing access information.

Testimony by Supporters

The Parole Panel will generally limit the number of persons speaking in support of an offender to one spokesperson. The Panel has the discretion to permit additional testimony from supporters when time permits, the additional testimony would not be repetitious, and the Panel believes such additional testimony would aid in a parole decision. All supporter testimony must occur in person at either the Parole Board office conducting the hearing, or at the facility where the inmate is housed.

A representative of an ~~prisoner~~ inmate is considered a supporter and the Panel may or may not allow additional supporter testimony when an ~~prisoner~~ inmate is represented. When a representative is assisting because of a language barrier or similar communicative reason, the Panel will generally allow testimony by another supporter in attendance.

Other Testimony

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 in person observers only. However, the Board at its discretion may permit victims, direct family members of victims, supporters, representatives of the inmate, judges, district attorney representatives, law enforcement, defense counsel, or any other party to speak at a hearing. This testimony will be provided in person at the hearing unless the Board has granted accommodations.

PAROLE VIOLATION HEARING PROCESS AND TESTIMONY

Parole violation hearings are formal due process hearings open to the public. They are conducted in two parts to:

1) Determine whether or not a parolee violated a condition of parole, and
2) If a condition was violated, determine the appropriate course of action (i.e., impose sanctions, revoke, or continue on parole).

Representation for Alleged Parole Violators

Alleged parole violators who are indigent are entitled to representation by a County Public Defender (NRS 260.050) or the State Public Defender (NRS 180.060).

Charges and Pleas

The initial phase of a violation hearing involves charges and pleas and the review of evidence. 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. If a parolee pleads guilty to all the charges, the Panel will enter a finding of guilt on all the charges without deliberating. If a parolee pleads not guilty to any charges, the Division of Parole and Probation (Division) will present evidence to support the allegations.

Testimony by a Victim of a Crime Committed by a Parolee on Parole

A person who is a victim of a crime committed by the parolee while on parole may be called to testify to provide details relative to the violation if a parolee pleads “not guilty” to the applicable violation. This

type of testimony will be conducted during the formal presentation of evidence during the hearing if the parolee pleads "not guilty" to the alleged violation(s).

If the parolee pleads "guilty" to a violation involving a victim of a crime committed by the parolee while on parole, the victim will be permitted to submit written documentation ~~prior~~ or testify on the record prior to the Panel deliberating on the final course of action at the designated Panel location or prison location. Please note: As parole violation hearings are recorded and become public record, please be aware that any person in attendance may be captured via audio or video.

Panel Deliberations and Findings

Once all evidence is examined, all those in attendance must leave the room to allow the Panel to deliberate in private[4] and make a finding on the charges. Once the Panel has finished deliberating, the parolee and all other persons in attendance may return to the hearing room for the findings to be made public.

When a parolee is found guilty of a violation, the parolee or his/her counsel will be permitted to make a statement of mitigation regarding the violations and will be permitted to make any requests regarding the final course of action that may be imposed by the Board.

After hearing any statement of mitigation or requests made by the parole violator, the Division will present their recommendation to the Panel.

Victim Impact Testimony

Following any testimony by the Division, a victim (of the violation or a victim of the offender in general) will be permitted to make a statement on the record before the Panel deliberates on a final course of action. In those instances where an ~~*prisoner*~~ *inmate* is found not guilty of all charges, a victim of the parolee may testify prior to the Panel's recommendation on the final course of action.

Victim testimony (unrelated to a contested violation) is intentionally timed to occur after the presentation of evidence and deliberation on the charges. This is to ensure that the consideration of the evidence on any violations is not influenced by victim testimony unrelated to the violation.

Deliberation on Final Action

Once all testimony has concluded, all those in attendance must again leave the room to allow the Panel to deliberate on a recommendation for a final decision. Once the Panel has finished deliberating, the parolee and all other persons in attendance may return to the hearing room and the recommendation for the final decision will be made public.

A recommendation by the Panel is subject to the approval of a majority of the members on the Board. If a change to the recommendation is made, all affected persons will be notified of the change as soon as practicable.

[4] NRS 213.131(5)

PERSONAL INFORMATION IS CONFIDENTIAL

Subsection 8 of NRS 213.131 states:

> ***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 pursuant to this section is confidential.***

Written communications to the Board

Written information not related to evidence in a parole violation hearing that is submitted by a victim to the Board will be kept as confidential and may not be disclosed directly or indirectly to anyone other than the Board, the judge, district attorney or others entitled to receive such information except when ordered by the Board or judge[5]. Inmates/Parolees ~~Offenders~~ are not entitled to receive or review documents submitted by a victim at parole release hearings.

A written statement submitted by a victim that pertains to a violation of parole and is used as evidence against a parolee is not privileged. The parolee and his/her counsel are entitled to receive a copy of such a document.

A general victim impact statement submitted to the Board for consideration subsequent to the consideration of evidence at a parole violation hearing will be kept as confidential and separated from the evidence and materials considered at a parole violation hearing.

Verbal Communications to the Board

Victims may submit personal information verbally in private to a Commissioner or Panel of the Board prior to a parole release hearing. Submitting personal information in this manner will not be recorded. Please note that since parole decisions require the votes of a majority of the members of the Board, and most cases are heard by panels that do not constitute a majority, any information submitted ~~to a panel~~ in this manner may not be shared with other voting members.

Verbal communications to a panel submitted on the record during any type of parole hearing is considered public information and will be heard by any person present in the hearing including the offender and therefore <u>will not be</u> treated as confidential. Additionally, since parole hearings are recorded, any public testimony will be available for review by any person who requests it following the hearing.

VICTIMS OF CERTAIN SEXUAL OFFENSES

The Parole Board generally records its proceedings and recordings of parole hearings are publicly available. Nevada Statutes prohibit the Board from disclosing the identity[6] (including a photograph) of victims of certain sexual offenses except when confidentiality is waived in accordance with NRS 200.3774. Victims of the following offenses should inform a Parole Board employee of their presence whether or not they plan to testify on a case involving any of the following offenses:

- Incest
- Sexual Assault
- Statutory Sexual Seduction
- Lewdness with a Child

[5] NRS 213.1075
[6] NRS 200.3771, NRS 200.3772 & NRS 200.3773

- Sado-masochistic abuse
- Luring a child using a computer, system or network if punished as a felony
- An attempt of any of the above listed offenses

Victims of these certain sexual offenses will be provided a waiver to sign if they intend to testify or be present publicly during a hearing. Note: Parole hearings are recorded and become public record, so any person in attendance, in-person or by telephone may be captured via audio or video. If you wish to ensure anonymity, submission of written documentation is highly recommended.

PAROLE HEARING RESULTS

The recommendation of a parole hearing Panel is subject to final approval by the affirmative action of a majority of the members appointed to the Board[7]. Panel member votes and recommendations are not disclosed until a majority of the members of the Board have arrived at a final decision.

Final decisions are generally made and disclosed to the ~~*prisoner*~~ *inmate* and victim within three weeks following the public hearing. Victims who have requested notification from the Parole Board will receive the results of the final decision in writing following the hearing.

CONTACT

Most Parole Board staff can answer general questions related to parole hearing and decision matters. The Board does employ a full-time staff member who coordinates victim notification matters and special requests and notifications by other interested persons. Interested persons are invited to contact the Parole Board victim services coordinator at 775-687-6503.

The Parole Board physical and mailing addresses are:

1677 Old Hot Springs Road, Suite A
Carson City, NV 89706
Phone: (775) 687-5049
Fax: (775) 687-6736

4000 S. Eastern Avenue, Suite 130
Las Vegas, NV 89119
Phone: (702) 486-4370
Fax: (702) 486-4376

Email Address: info@parole.nv.gov

Website: http://parole.nv.gov

[7] NRS 213.133(3)