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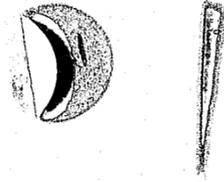


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THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF HUMAN SERVICES
MASSACHUSETTS PAROLE BOARD

Brian A. Callery
Chairman

PAROLE
INFORMATION
BOOKLET

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Institutional Services
1983

PREFACE

The Information contained in this pamphlet is designed to assist you in understanding the function of the Massachusetts Parole Board. The pamphlet is issued to all inmates who fall under the jurisdiction of the Board.

The pamphlet was developed for the purpose of explaining the Board's release decision-making process including; eligibility dates, mandatory sentences, early and special consideration, and the revocation and rescission process.

The Parole Board strongly suggests that you read this material very carefully.

It is important that you carry this pamphlet with you as you serve your time. In the event that you have any questions regarding Parole please contact your Institutional Parole Officer for further information.

Brian A. Callery
Chairman
MASSACHUSETTS PAROLE BOARD

QUESTION: What does the Massachusetts Parole Board do?

ANSWER: The Massachusetts Parole Board is the sole decisional authority in the Commonwealth for the granting and revocation of parole. The Parole Board has jurisdiction over all individuals committed to state or county facilities for a term of 60 days or more. Parole is a procedure for the release of prisoners prior to the expiration of sentence, permitting them to serve the remainder of their sentence under parole supervision in the community in compliance with specified conditions.

Under provisions of the General Laws, (G.L. Chapter 27, s.5), the Parole Board has as its principal functions the duty to:

- A) Determine whether and under what conditions an individual should be released to the community.
- B) Supervise the individual in the community, monitoring the implementation of parole conditions and determining whether any imposed conditions have not been observed.

In its capacity as the Governor's Advisory Board of Pardons, it makes recommendations to the Governor on the merits of all petitions for executive clemency which consist of pardons and commutations.

In addition, the Parole Board is empowered to review and remove court-imposed restrictions relating to movement within the Treatment Center of those confined as sexually dangerous persons.

The Parole Board is also invested with authority to terminate sentences for individuals completing at least one year of satisfactory parole adjustment.

In fulfilling its statutory obligations, the Parole Board is also called upon to make preliminary decisions such as: the establishment of hearing dates and basic parole eligibility; the granting of public hearings on petitions for pardons and commutation; detention of clients; and rescission and revocation of parole permits.

QUESTION: How do I determine my parole eligibility date?

ANSWER: The date on which you first become eligible for parole is based on the sentence or sentences that have been imposed by the courts. The method for determining this initial eligibility date varies depending on the institution to which you were sentenced.

There are three categories of sentences for parole eligibility purposes: 1) Walpole sentences; 2) Concord and Framingham sentences, and 3) House of Correction sentences.

The methods for determining initial parole eligibility for these categories of sentences are as follows:

Parole Eligibility - State Prison

Those sentenced for what are called "Crimes against property" (non-violent crimes) must serve one-third (1/3) of their minimum sentence or at least one year before they are eligible for parole.

Those sentenced for what are called "Crimes against the person" (violent crimes) must serve two-thirds (2/3) of their minimum sentence, or at least two years before they are eligible for parole.

Anyone who commits any crime while on parole and who is sentenced for it must serve two-thirds (2/3) of their minimum sentence, or at least two years before they are eligible for parole. The exception is when concurrent sentences to M.C.I. Walpole are imposed; the Attorney-General ruled that individuals could become eligible for parole in less than one or two years in this case.

Parole Eligibility - State Prison (Cont'd)

For example, if the judge sentenced you to MCI-Walpole for a term of not more than eight (8) years and not less than six (6) years, your sentence would be 6-8 years. Six years is your minimum sentence.

- (A) If you were sentenced to 6-8 years for a violent crime, you must serve four (4) years before you are eligible for parole. (Two thirds of six years = four years).
- (B) If you were sentenced to 6-8 years for a non-violent crime, you must serve two (2) years before you are eligible for parole. (One-third of six years = two years)
- (C) If you were on parole and received a six to eight year sentence for any crime, violent or non-violent, you must serve four years before you are eligible for parole (Two-thirds).

QUESTION: What crimes are two third (2/3) offenses?

ANSWER: Two-Thirds offenses are as follows:

Manslaughter
Mayhem
Assault w/dangerous weapon
Attempt to murder
Assault dwelling house w/D.W.
Unarmed Robbery
Rape
Rape of child
Assault on child w/intent rape
Kidnapping
Unnatural and lascivious acts
Sodomy
Arson (dwelling house)
Indecent A&B child under 14 yrs
Assault w/int murder or maim
A&B by means of dangerous weapon
Armed Robbery
Assault to rob or murder armed w/D.W.
Assault w/int to rob or steal
Stealing by confining or putting in fear
Rape and abuse of child
Attempted extortion
Incestuous marriage or intercourse
Unnatural and lascivious acts with child under 16
Arson (meeting place)
Arson for profit

QUESTION: Do certain offenses carry a mandatory number of years before an individual is eligible for parole?

ANSWER: Yes,

Certain offenses carry a mandatory number of years before an individual is eligible for parole. A partial list is as follows:

<u>Offenses</u>	<u>Mandatory Term of Years</u>
Murder in the first degree	No Parole
Murder in the second degree	15 Years
Life sentence for crime other than murder	15 Years
A&B for the purpose of collecting a loan second or subsequent offense	5 Years
Armed assault in a dwelling w/D.W. w/intent to commit a felony	5 Years
Unlawfully carry a D.W., second or subsequent offense	1 Year on first, no G.C.D. on second
Bartley-Fox Mandatory Gun Law Chapter 269 S.10 Subsection A.C.D.	1 Year without parole or any other type of release; no good time on first yr of sentence
Commitment as "Sexually Dangerous Person:	Eligible to see the Parole Board once during the first 12 months (provided such person is otherwise eligible for parole) at least once during each three (3) year period thereafter, or at any time when recommended by two psychiatrists, (appointed) by the Commissioner of Mental Health) that you are a fit person for parole.
Habitual Criminals	One half of the maximum sentence

QUESTION: How can mandatory sentences affect parole eligibility?

ANSWER: There are some crimes for which conviction means that the judge must impose a sentence. Many of these so-called "mandatory" sentences also mean that a certain amount of time must be served before parole eligibility occurs. If this set period until eligibility is longer than what the parole eligibility would otherwise be under the normal methods of determining parole eligibility, then this mandatory period controls. For example, a one year sentence to the House of Correction would normally carry a parole eligibility of six months (half time). However, if the one year sentence is for conviction of carrying a firearm (Bartley-Fox), then that sentence carries a one year mandatory period, and there would then be no parole eligibility on that sentence.

Parole Eligibility-Concord/Framingham

Parole eligibility for Concord/Framingham sentences are established by Parole Board Policy. The current policy is determined by the number of years an individual is sentenced to serve and whether or not the individual has had a previous adult commitment that occurred before the present sentence was imposed.

The following chart shows how to compute the parole eligibility for Concord/Framingham sentences.

	Sentence is less than 6 years	6-12*yrs	12-18*yrs	18 yrs or more
No prior adult incarceration when crime was committed	Halftime or 6 mos; whichever is less	12 mos.	18 mos.	24 mos.
Prior adult incarceration when crime was committed	Halftime or 12 mos; whichever is less	18 mos.	24 mos.	24 mos.

*
Up to, but not including

Parole Eligibility-House of Correction

Parole eligibility for House of Correction sentences is established by Parole Board Policy. The current policy is halftime, up to a maximum of two years (2) if there are aggregate (from and after) sentences.

The following examples show the method to be used in calculating House of Correction sentences:

- (1) 2 year House of Correction sentence
Eligibility would be 1 year ($\frac{1}{2}$ time)
- (2) 2 years, 2 yrs, F&A, 2 yrs, F&A. (6yrs aggregate)
Regular eligibility at $\frac{1}{2}$ time would be three years.
However, under present Parole Board Policy you would be eligible in two (2) years.

Please note that the Bartley-Fox Mandatory Gun Law, Chapter 269, S.10, Subsection A.C.D. is an exception to this policy. Should you be sentenced to the House of Correction for a term of one year (1) under this law you would not be eligible for parole, nor would you receive any good time or any type of release (furloughs, work release etc.) until you have served the mandatory 1 year).

QUESTION: What is meant by a "prior commitment"?

ANSWER: The term "prior commitment" includes any adult commitment, regardless of whether it was in Massachusetts or any other state. Exceptions to this rule are commitments which occurred in the Armed Services, unless they resulted from a General Court Martial and incarceration in a military prison.

QUESTION: What is the "Henschel Decision"?

ANSWER: Sentences from different institutions are aggregated for Parole Purposes only under the Henschel decision. From and after sentences to M.C.I.'s Concord, Framingham, Walpole and Houses of Correction may be aggregated, and one (1) parole date is determined by adding all parole eligibilities of the governing and from and after sentences. This enables a person to serve all sentences at one time, rather than to be paroled to another institution to serve a from and after sentence/s.

Sentences that cannot be aggregated under Henschel:

- 1) Crimes committed while on adult parole from a Massachusetts sentence (County or State).
- 2) Murder-first degree
- 3) Assault on a Correction Officer
- 4) Mandatory sentences (such as the Bartley-Fox Gun Law)

If you have any questions regarding Henschel please see your Institutional Parole Officer.

QUESTION: Can I ever be considered for parole release earlier than my initial parole eligibility date?

ANSWER: Yes, there are two special procedures.

Special Consideration

State Prison
1/3 Consideration

Individuals serving sentences for certain specifically enumerated violent crimes although regularly parole eligible after service (two-thirds of the minimum sentence (but in no event less than two years), may in certain instances achieve an earlier eligibility under the provisions of Chapter 764 of the Acts of 1965, now incorporated in Chapter 127, S. 133b. There is a mechanism established under which, with the approval of the institution superintendent, the commissioner of Correction and a majority of the members of the Parole Board, an individual may become eligible at some point between 1/3 and 2/3rds of the minimum term. This procedure is not available to those serving sentences for crimes committed while under Massachusetts parole supervision.

The process is as follows:

- 1) The individual may write to the Superintendent as early as 90 days before the date of one-third of their minimum sentence. An internal classification board will then review the case, making sure the individual is eligible, interview the person and make a recommendation to the Superintendent. The Superintendent approves or denies 1/3 parole consideration based upon review of the Classification Board's recommendation and the individual's record.
- 2) Should the one-third request be approved by the Superintendent, it is then forwarded to the Commissioner of Correction for his consideration.
- 3) If approved by the Commissioner, the request is sent to the Parole Board. A majority of the Board must approve the request; if they do, the individual's name is placed on a parole hearing list (as specified by the Board) to be seen by the Board for parole consideration.

Should your request for 1/3rd consideration be denied at any point, the whole process stops and you may submit a new application after 90 days have expired.

Early Consideration
Concord/Framingham/House of Correction

Individuals serving a sentence to MCI Concord, MCI Framingham or a House of Correction may request early consideration at any time. A written request should be submitted to the Superintendent or Sheriff in charge of the institution where incarcerated. If the Superintendent or Sheriff, or a person designated by them for that purpose, approves the request, a package containing the institutional recommendation, inmate's written request, and all pertinent records such as police reports, sentencing summary, probation reports, etc. is then sent to the Institutional Parole Officer. If all necessary material is included, the IPO then forwards it to the Board for a vote.

You may again request early consideration upon denial by the Board, no sooner than 90 days from the date of denial.

While the Parole Board does not intend to discourage legitimate early consideration requests their considerations will be based only on evidence of compelling institutional achievement and on a predominance of "positive over negative factors".

In the absence of a verified medical or family emergency, the Board will not entertain early consideration petitions for the following categories:

Those serving weekend sentences;
those serving sentences of less than six months;
individuals with outstanding warrants.

There will be a very strong presumption against early consideration in the following categories:

Those serving a sentence representing a crime on parole;
those convicted of trafficking in narcotics;
those convicted of sex offenses.

QUESTION: What happens at a Parole Board release hearing?

ANSWER: Initial release hearings are generally held sometime in the month previous to the month that an individual's parole eligibility date falls. For example, if your eligibility date is March 17, 1983, the parole hearing will occur in February, according to a schedule of hearings that is available at least one month ahead of time. These hearings are informal, no attorneys or witnesses are allowed either in favor or in opposition to release, and the Institutional Parole Officer will also be present. The hearing will consist of a Board Member or Members questioning the individual or the individual making an open statement bearing on his/her readiness for parole. However, there is no set format for a parole hearing and the individual is given fair opportunity to make an effective presentation of his/her case. Ordinarily the interview is followed by a short executive session (you will be asked to leave the room) during which time the decision is reached. You will then be called back into the room and will be told of the decision of the Board and reasons for it. Normally, a parole hearing lasts approximately twenty minutes although due to circumstances much longer hearings may be held. The hearing may also be shorter if there are outstanding criminal matters of a serious nature.

The hearing will usually cover such subjects as the facts of the crime or crimes that were committed, circumstances surrounding the commission of the crime, impact on the victims, any prior criminal conduct, social and work history, attitude, alcohol and/or drug history, institutional conduct, prior paroles, and future plans. An individual who fairly and realistically evaluates himself or herself in light of these areas soon after entering an institution, and then utilizes available programs that address areas of concern, and honestly discusses these issues at the release hearing, is improving the likelihood of a favorable decision of the Board.

You will have an interview with a member of the institutional parole staff a few weeks before your scheduled release hearing. At that time you will be familiarized with what happens at a parole hearing and be asked what are your plans if released on parole, such as proposed home, work, training or counseling plans. These will be verified and approved by field parole staff before release occurs.

QUESTION: What are the functions of a Hearing Officer?

ANSWER: It is Parole Board policy that the Chairman of the Parole Board designates Hearing Officers to conduct hearings in lieu of the Board for inmates serving House of Correction sentences or total aggregate sentences of sixty days to one year who are under the Board's jurisdiction.

1. This includes split sentences having committed portions of sixty days or more.
2. This includes weekend sentences having committed portions of sixty days or more.

Such inmates are automatically parole eligible at half time. These hearings are held in the same manner as those before the Board, except at the conclusion of the hearings, the Hearings Officer will disclose the recommendation he or she will make to the Board concerning release. The Board may choose to vote differently from the recommendation of the Hearings Officer. You will be notified by institutional parole staff of the final outcome of the Board's vote.

QUESTION: What type of action will the Parole Board take at my Release Hearing.

ANSWER: The Parole Board, in determining what action will be taken as a result of a release hearing, has a number of different options to consider. The Board may vote favorably to release you or it may vote to Deny Parole. In the case of denying a parole you will be considered again one year from the date of denial. The Board may also consider other options with certain conditions imposed as terms of Parole. For more information regarding this area please contact your Institutional Parole Officer.

Reasons for Adverse Decisions

Where parole is not granted after a full hearing, the Board will explain orally to the individual the reasons for the adverse decision and make suggestions as to the type of accomplishments, if any, which should be achieved to maximize the chances of release at the next hearing.

Letters explaining the Board's adverse decision will be mailed to the inmate within twenty-one days of the decision.

QUESTION: Is there any way to appeal a vote of the Parole Board?

ANSWER: In instances where you feel that the decision of the panel was unfair, you may appeal in writing within thirty (30) days of the decision of the original panel. Thereafter, in the event that the original decision is reaffirmed, you may appeal in writing to the Full Board within an additional thirty (30) days.

Reconsideration

If the original panel has voted "Parole Denied" and has established fulfillment of certain specific requirements as a condition for reconsideration e.g. removal of a warrant, or a specified period of successful pre-release or work-release experience, and those conditions have been met, you may petition the panel that heard you at any time for reconsideration. In these circumstances the Board will normally schedule a hearing. Any subsequent request for reconsideration will be circulated randomly to Parole Board Members.

If you assert that compelling personal circumstances such as a transfer, program involvement, or family problems not previously addressed by the Board warrant a review, you may petition the original hearing panel following the elapse of ninety (90) days from the date of decision.

QUESTION: What is a "rescission" of a parole date?

ANSWER: When you have been seen by the Parole Board and granted a release date, that date is conditional, depending on your continued good behavior and nothing else occurring that would seriously call into question your parole readiness. If, however, something does occur, such as serious institutional misconduct, re-classification, a new criminal charge, or an old warrant surfacing, that conditional release may be taken away, that is, "rescinded". Whatever the reason for the possible rescission, the matter will be reviewed by members of the Parole Board who may, by office vote, rescind the previous vote of the panel which granted a release date. The specific vote of the Board will be "Rescind vote of (date of previous vote) and place on next available list for hearing". An institutional "rescission" hearing will then be held by members of the Board to determine: 1. whether adequate grounds existed to rescind the previous vote and 2. what action should be taken such as granting a new parole date, a postponement or denial of parole. The Board will rescind a date when it believes that the incident casts some doubt as to parole readiness or results in a new parole eligibility date which makes you ineligible for parole at that time.

QUESTION: What is an institutional revocation hearing?

ANSWER: If you have been released on parole and then provisionally (temporarily) revoked because of a violation of the conditions of parole, you will usually receive a final revocation hearing before members of the Parole Board within 30 to 60 days of the execution of the parole violation warrant.

You will be notified by institutional parole staff as to when your final revocation hearing will occur.

The purpose of this hearing is to decide 1. whether the provisional (temporary) revocation of parole should become final (meaning that the Board finds that a parole violation did occur) and, 2. whether you should again be released on parole.

You have the following rights at this revocation hearing:

- a. Written notice of the alleged violations of parole;
- b. Disclosure to the parolee of evidence against him/her;
- c. Opportunity to be heard in person and to present witnesses and documentary evidence; however, witnesses may be limited as to the number where it appears that their testimony would be repetitive;
- d. Right to confront adverse witnesses unless members of the Board find "good cause" for denying such confrontation;
- e. Right to retain an advocate;
- f. Right to a written statement disclosing the action of the Board and the reasons for it.

You may arrange for legal representation for this hearing.

The normal procedure is for the panel to announce the decision at the conclusion of the hearing specifying the finding of the Board as to each of the alleged violations. The panel makes an independent decision, assuming that the revocation is affirmed, as to whether reparole should be considered, and if this decision is adverse to you, the written statement will follow.

QUESTION: Is it possible to be released on parole to a state other than Massachusetts?

ANSWER: Yes. Massachusetts is a member of the Interstate Compact for the Supervision of Probationers and Parolees. It allows an individual to be paroled to another state, if accepted by that state. A person who has been so accepted is governed by the rules of parole of both Massachusetts and the other state.

To request an out-of-state parole, you should contact the Institutional Parole Officer well in advance of your hearing, since you must submit a proposed home and work plan, and it must be approved by the other state before they will accept you if you get a parole.

QUESTION: What is the Advisory Board of Pardons?

ANSWER: The Parole Board and the Board of Pardons are one in the same, but perform different functions. As the Advisory Board of Pardons, the Board conducts hearings and makes recommendations on applications for pardons (state forgiveness for crimes) and commutations (shortening of the period of punishment) to the Governor. Only the Governor, with the advice and consent of the Executive Council, can grant a commutation or pardon.

Commutation, which is available to prisoners, is seldomly granted, and almost always only for life sentences. It is seriously considered only in cases of extraordinary merit and, as a matter of practice, only after a substantial period of incarceration has elapsed.

Any requests or petitions for commutation of sentence are first sent to the Governor and then forwarded to the Board for action, with or without a hearing.

QUESTION: How can I review information about myself compiled by or for the Parole Board?

ANSWER: The Parole Board compiles information about inmates in order to make informed decisions about release, supervision, etc. In general, this information is of two types: 1. Criminal Offender Record Information (CORI); 2. Evaluation Information. The rules covering when this information can be disclosed to the individual whom it is about vary according to which type of information it is.

1. Criminal Offender Record Information (CORI)

Examples of CORI are: Official records of court convictions and appearances, record of criminal charges, sentences, whether and when released on parole, parole eligibility dates, etc. In general, CORI is brief line-items of an individual's official contacts with the criminal justice system. Each individual has the right to inspect and, if practicable copy CORI which refers to him or her. However, the Parole Board generally will provide access only to CORI which originated within the Parole Board. Access to CORI which occurred from another agency, such as Corrections or Probation, must be obtained through the agency of origin.

2. Evaluative Information

Evaluative information is a much broader category of information. It is documents like classification reports, psychiatric evaluations, and other reports about an individual's mental, or physical health, employment and social histories, and other assessments and evaluations.

Generally, this type of information will be disclosed upon request to the person it pertains to. However, if any of this information was provided only upon a legitimate expectation that it would be kept confidential or its release may tend to result in harm to an individual, or, if its release would interfere with an on-going treatment relationship, then this information may be withheld from disclosure, but the individual will be told of that fact.

If you are interested in seeing information held by the Parole Board, you should make a request of the Institutional Parole Officer to do so. If an item that you want to see is not available from the IPO, you may authorize in writing someone else who is not an inmate or parolee to go and obtain this information, but only for the purpose of giving it to you. Identification is also required.

Attorneys and law students representing you, may also be given permission in writing to review CORI or Evaluative Information that can be disclosed.

In summary, many situations are likely to arise which are not specifically covered by this document. In such cases, please contact the Institutional Parole Officer for further assistance.

On behalf of the Parole Board and Parole Staff we hope that, during your present incarceration, you will use your time to improve yourselves, and make preparations to live a successful, law-abiding life upon release.

END