

# **Nevada Board of Parole Commissioners**

## **Parole Hearing Participation & Testimony For Victims and Supporters Revised July 31, 2019**

This document was developed to provide information regarding the general parole hearing process with respect to 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.

**This document does not contain information related to recent legislative changes that become effective in July 2020. Legislative changes that affect the information in this document will be incorporated at a later date.**

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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<sup>1</sup>. 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.

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<sup>1</sup> NRS 213.131(3)

## **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.

The initial discretionary parole eligibility date is the date set by the NDOC that satisfies the minimum term imposed by the Court. If a prisoner is granted parole at this date, he or she may not be released until on or after that date. If a prisoner is denied parole, the Board may 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 a prisoner 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 prisoners projected expiration. Since prisoners 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 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 are video teleconferenced from one of the Parole Board offices (Las Vegas or Carson City) to the prison location where the prisoner is housed. Prisoners who are assigned to residential confinement appear in person at the Parole Board office closest to where the prisoner resides.

Parole violation hearings are public hearings held in person at the prison where the alleged parole violator is housed. Any person wishing to attend a parole violation hearing must appear in person at the prison.

### **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 is housed. The Board does not conduct “three-way” video hearings or allow persons to “call-in” to submit testimony. All participation in the parole hearing process must take place by attending at either the designated Panel location or the video conference location where the prisoner is housed.

### **Violation Hearings - Attendance at Prison Location**

Parole violation hearings are generally held at the prison where the alleged parole violator is housed. These locations are typically prison intake centers located reasonably close to the location where the prisoner was being supervised when the alleged violation 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.

### **Attendees Should Identify Themselves to Staff**

Visitors attending parole hearings should indicate to the Parole Board staff if they are a victim of an offender, a supporter, or a prisoners’ 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 a prisoner.

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 information to be relayed to the Board through the caseworker, so the Panel can ensure the rights afforded to victims are accommodated at the video conference location.

### **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.

### **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.

All public testimony must be directed to the parole hearing panel members, and not to the prisoner 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 following any public testimony. The Panel will not generally permit a prisoner to respond or provide input to the Panel regarding any supporter or victim testimony.

### **Order of Testimony**

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

Once all general parole hearing discussion has concluded, one representative of any supporters of the prisoner in attendance (in the hearing room and/or at the prisoner location) may be permitted to testify.

Upon the conclusion of any supporter testimony, any victims in attendance (in the hearing room or at the prisoner location) 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<sup>2</sup> 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 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.

### **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.

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 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<sup>3</sup> at a parole hearing. As such, the Panel will not limit the number of victims speaking at a hearing.

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<sup>2</sup> NRS 213.131(8)

<sup>3</sup> NRS 213.131(4)

When multiple victims are present 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**

Victims who wish to testify in support of an offender do not lose their rights as a victim. Victim-supporters will be afforded the right to testify as a victim in support 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 choose to represent themselves. Nevada law does not restrict representatives to licensed attorneys. Prisoners may choose a family member or friend to assist them, and in some cases, another prisoner. Time limits may be imposed when a representative wishes to make a more formal presentation.

### **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.

A representative of a prisoner is considered a supporter and the Panel may or may not allow additional supporter testimony when a prisoner 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.

## **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. 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 testify on the record prior to the Panel deliberating on the final course of action.

### **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<sup>4</sup> 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 a prisoner 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.

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<sup>4</sup> 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<sup>5</sup>. 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 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 during a parole hearing will be heard by any person present in the hearing including the offender and therefore will not be 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 video records its proceedings and recordings of parole hearings are publicly available. Nevada Statutes prohibit the Board from disclosing the identity<sup>6</sup> (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
- Sado-masochistic abuse

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<sup>5</sup> NRS 213.1075

<sup>6</sup> NRS 200.3771, NRS 200.3772 & NRS 200.3773

- 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 publicly during a hearing.

## 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<sup>7</sup>. 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 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 775-684-2684.

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](mailto:info@parole.nv.gov)

Website: <http://parole.nv.gov>

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<sup>7</sup> NRS 213.133(3)