

**CENTRAL OFFICE**

1677 Old Hot Springs Rd., Ste. A  
Carson City, Nevada 89706  
http://parole.nv.gov  
(775) 687-5049  
Fax (775) 687-6736

CONNIE S. BISBEE, *Chairman*  
TONY CORDA, *Member*  
ADAM ENDEL, *Member*  
SUSAN JACKSON, *Member*

DENISE DAVIS, *Executive Secretary*

**STATE OF NEVADA**  
BRIAN SANDOVAL  
Governor



**LAS VEGAS OFFICE**

4000 S. Eastern Ave., Ste. 130  
Las Vegas, Nevada 89119  
http://parole.nv.gov  
(702) 486-4370  
Fax (702) 486-4376

CONNIE S. BISBEE, *Chairman*  
ED GRAY, JR., *Member*  
MICHAEL KEELER, *Member*  
MAURICE SILVA, *Member*

**NEVADA BOARD OF PAROLE COMMISSIONERS**

**MEETING OF THE BOARD OF PAROLE COMMISSIONERS NOTICE AND AGENDA**

**Date and Time: Monday, October 29, 2012 at 4:00 PM**

**Location: Board of Parole Commissioners 1677 Old Hot Springs Rd., #A Room 201 Carson City, Nevada 89706**      **Video Conference to: Parole Board Office 4000 S. Eastern Ave., Suite 130 Room 301 Las Vegas, Nevada 89119**

**AGENDA**

<b>4:00 PM</b>	<b>I</b>	Call to Order and Roll Call
	<b>II</b>	Public Comment. No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.
	<b>III</b>	<u>For possible action:</u> Comprehensive Review of Parole Standards (NRS 213.10885). Comments related to this agenda item from members of the public will be considered before the board takes action. The Board contracted with a consultant to review and re-validate the parole risk assessment and guideline used to consider inmates for release on parole, and provide a report detailing findings, conclusions and any recommendations. The Board will discuss the consultant’s report and may act to make changes to the risk assessment and parole guideline based on the findings and recommendations. The Board may make a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

	<b>IV</b>	<p><u>For possible action:</u> Review/Approval of proposed changes to the Operation of the Board. Comments related to this agenda item from members of the public will be considered before the board takes action.</p> <p>The Board may act to approve the recommended changes, or make other changes related to the operational policies of the Board. The recommended changes include, but are not limited to: updates to statutory references as a result of changes made during the 2011 legislative session; clarification on video conference parole hearings; clarification on recommendations made by case hearing representatives; clarification on the handling of split votes by commissioners; and, procedures related to parole grants to sex offenders and psychological review panel reports as the result of changes made during the 2011 legislative session.</p> <p>No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.</p>
	<b>V</b>	<p><u>For possible action:</u> The Board may act to adjourn the meeting.</p>

A period shall be devoted to public comment. The Board may limit such comment to three minutes per person. At the discretion of the Chairperson, agenda items may be combined for consideration, or taken in a different order. The Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

**This notice of hearing has been posted at the following locations:**

CARSON CITY: Parole Board office, 1677 Old Hot Springs Road, Suite A, 89706; Attorney General’s office, 100 S. Carson Street, 89701; Carson City Library, 900 N. Roop Street, 89702; LAS VEGAS: Parole Board office, S. 4000 Eastern Ave., Ste. 130, 89119; Attorney General’s office, 555 E. Washington Avenue, 89101; County Court House, 200 S. Third Street, 89101; Clark County Main Library/Reference section, 833 Las Vegas Blvd., 89101.

This agenda was mailed out and posted on the Parole Board web site located at <http://parole.nv.gov/> on **Monday, October 22, 2012.**

Persons with disabilities who require special accommodations or assistance at the public hearing should notify Denise Davis, Board of Parole Commissioners, 1677 Old Hot Springs Road, Suite A, Carson City, NV 89706, or call (775) 687-5049, or fax (775) 687-6736.

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Suite 130  
Las Vegas, Nevada 89119-0840  
<http://parole.nv.gov>  
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NEVADA BOARD OF PAROLE COMMISSIONERS

October 22, 2012

To: Parole Board Chairman and Members  
From: David M. Smith, Hearings Examiner II  
Subject: Recommended Changes to the Parole Risk Assessment

The JFA Institute has recommended a number of changes to the parole risk assessment based on the recent re-validation and comprehensive review. The following highlight the recommended changes:

1. Change the upper level of low risk to "5" points and the lower level of high risk to "12" points.
1. Gang Validation: Give +2 points for validated gang members or associates. Do not give credit if the inmate is listed as a gang "suspect" in the PSI or NOTIS system.
2. Disciplinary Misconduct: Change the points given for disciplinary misconduct to the following (within the past 12 months to the hearing month):
  - 1 points: No guilty findings
  - 0 points: One guilty finding of any type
  - +1 point: Two guilty findings of any type
  - +2 points: Three or more guilty findings of any type
3. Program Participation: Give credit (-1 points) for:
  - A. Achievement of a high school diploma, GED or College Degree during the current period of incarceration.
  - B. Completion of an evidence-based treatment program known to reduce recidivism certified by the NDOC as being conducted in accordance with the program guidelines.
  - C. Completion of a vocational program administered by an NDOC qualified instructor.

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## NEVADA BOARD OF PAROLE COMMISSIONERS

October 18, 2012

To: Sheryl Foster, Deputy Director  
Department of Corrections

From: Connie S. Bisbee, Chairman

Subject: Re-validation of the Parole Risk Assessment and NDOC Programs

Attached is a copy of the final report following a comprehensive review of Nevada's parole standards. The Board will meet at 4:00 PM on Monday, October 29, 2012 to act on the findings of this report.

A number of items that have been relatively reliable in predicting recidivism in the past showed in this study to be less predictive, or unreliable. As a result, some changes to the Board's risk assessment are being recommended by The JFA Institute.

Each factor on the parole risk assessment is selected and weighted based on its characteristic in predicting recidivism. Completion of program treatment, when properly administered, is one factor that can be effective in predicting, or reducing, recidivism. One recommended change relates to the completion of NDOC programs. In the past, the Board has given credit on the parole risk assessment to inmates who completed certain NDOC programs.

The re-validation study shows that the completion of those programs are not predictive in reducing recidivism when compared to inmates who did not complete those programs.

I am aware that the NDOC has made a number of changes in the past year to improve its programs including hiring a substance abuse programs director with experience in evidence-based treatment, and bringing in an outside consultant to review and make recommendations to improve NDOC programs. As a result of this review, the NDOC has recently taken steps to implement evidence-based substance abuse programs.

During the review we also learned that the STOP treatment program for sex offenders had been modified by the NDOC, and is no longer being conducted in strict compliance with the STOP treatment guidelines. The STOP program is used in other correctional settings, and it is known to reduce recidivism in sex offenders when it is administered according to its curriculum.

Sheryl Foster, Deputy Director  
October 18, 2012  
Page 2

The JFA Institute is recommending that instead of eliminating credit on the risk assessment given for program completion, the Board give credit when an inmate completes an evidence-based program (known to reduce recidivism) that is administered and conducted in compliance with the program guidelines.

I anticipate that the Board will accept this recommendation at the October 29<sup>th</sup> meeting. As such, the only credit given on the parole risk assessment will be for the achievement of a high school diploma, GED or college degree, or the completion of a certified vocational program administered by a qualified instructor. Such credit would only be given if the achievement occurred during the current period of incarceration.

In order to give program and vocational credit on the risk assessment, I request the following:

1. A list of vocational programs administered by the NDOC which are conducted by a qualified instructor;
2. The names of all the evidence-based programs administered by the NDOC in accordance with the program guidelines, and the program implementation date.
3. Notice of any evidence-based programs implemented in the future, and notice of the date when the STOP program is being administered in accordance with the program guidelines.

Upon receipt of this information, the Board will begin allowing credit for the completion of these programs on the parole risk assessment.

In addition, I invite you or Dr. Edwards (or other NDOC staff) to attend the Board's meeting on the 29<sup>th</sup> if you would like to provide information to the Board on the efforts being made by the NDOC to implement evidence-based treatment programs. Of note, the meeting on the 29<sup>th</sup> is a public meeting and will be conducted in accordance with the open meeting law.

Thank you for your assistance regarding this matter.

cc: Dr. James Austin, The JFA Institute  
Greg Cox, NDOC Director  
Dr. Darcy Edwards, NDOC Substance Abuse Programs Director

**Revalidation of the Nevada Parole Board  
Risk Assessment Instrument  
Draft**

**Prepared by**

**James Austin, Ph.D.**

**Roger Ocker**

**The JFA Institute**

**2012**

## **Introduction and Background**

An increasing number of parole boards throughout the United States are relying upon risk assessment instruments to help them make decisions about whether to grant or deny parole to prisoners eligible for release to the community. The Nevada Parole Board is one of those states where a parole risk assessment instrument is being used for such purposes.

The Board first began using a validated risk instrument in 2004. That instrument was based on a cohort of 5,375 prisoners who were released from custody in 1999 and tracked to determine how many were returned to custody within three years of being released. That study found that 27% of the released prisoners had been returned for either a new offense or a technical violation (14% were returned for a new conviction) while 13% were returned for a technical violation).

A more simplified version was adopted in 2008 which removed a number of items that were redundant or should be used as aggravating and mitigating factors. The current instrument as shown in Appendix A consists of 11 items, which are further separated as according to static and dynamic risk factors. The static items are risk related factors that do not change over the course of the person's imprisonment. The dynamic factors are risk related items that can vary based on time served and the prisoner's conduct. All of the items are found on most adult correctional risk assessment instruments, which have been validated on a variety of adult correctional populations (probation, parole and prison).

In the last validation study, it was found that the overall instrument score was associated with recidivism which was defined as being returned to prison for any reason within a three-year period. The items that were most predictive were the so-called "static" factors that are largely reflective of the person's attributes at the time of admission to prison. The so-called "dynamic" factors consist of factors that reflect the prisoner's behavior and conduct that have occurred since being admitted to prison. These include the inmate's current age, gang affiliation, participation and completion of rehabilitative programs, and custody level.

It is important to note that the participation in treatment/rehabilitative programs was found *not* to be related to recidivism (i.e., had no positive impact on lowering recidivism rates) in the last validation. At that time, JFA recommended continued use of the this factor based on

studies conducted in other jurisdictions that had found such a relationship but that another study be completed to determine if such an effect could be detected.

### **Study Design**

This study is based on a cohort of prisoners released in 2009 and followed for a two-year period. It consists of 5,693 released prisoners whose overall return to prison rate was 22.6% (see Table 1). Of the 22.6%, those returned for a new crime was 10.2% versus 12.4 % returned for a technical parole violation.

It's important to note that this recidivism rate is low and compared to most states is low. The most recent national data on recidivism was published in April 2011 and examined the 3-year return to prison rates for prisoners released in 1999 and 2004.<sup>1</sup> For both cohorts the overall return to prison rate was 45% and 43%. Nevada was one of nine states that did not participate in the study. But given that most re-admissions occur within two years, its fair to say that Nevada's rate is among the lowest of the states.

The Nevada Department of Corrections (NDOC) has recently completed a three-year recidivism study of 5,139 prisoners released in 2008 and reported that only 27% were re-admitted to prison for a new crime after three years.

One of the reasons for the low recidivism rate is the large number of California residents who are arrested and convicted of crimes while visiting or temporally residing in Nevada. Upon their release from prison many may either be paroled to California or relocate there after a short period of parole supervision. When re-arrested, convicted and sentenced to prison in California they will not be counted as a recidivist.

These low rates of recidivism had several policy and research implications. Most significantly, it shows that overall the vast majority of prisoners being released from prison (over 70%) are not returning to prison. In turn this means that as a class of people they are not high risk to re-offend. The downside of this positive statistic is that it becomes more difficult to develop risk instruments that will accurately predict those who will return to prison. It's far easier to predict who will not return to prison since the vast majority do not return. Put differently, if one

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<sup>1</sup> *State of Recidivism, The Revolving Door of America's Prisons*. April, 2011. The Pew Center on the States.



predicted that every prisoner released from prison will not return within 2-3 years for any reason, one would be right 70-75% of the time.

Given these broad parameters, a parole board should be granting parole in the majority of cases it sees since most of the candidates for parole are non-recidivists, at least in terms of being readmitted to Nevada's prison system.

### **Analysis**

A series of statistical runs were made based on the data file provided by the NDOC of the 2008 releases. That data file included a variety of demographic and criminal offense data. More importantly, the file included the items used by the Nevada Parole Board on its risk instrument. Table 1 shows the recidivism rates for some of the key demographic and offense attributes. The results show, as expected, statistical associations for age, gender and offense. Put differently, younger people and males have higher rates of recidivism. And as has been noted in prior recidivism studies in Nevada and elsewhere, persons convicted of violent crimes, drugs sales and DUIs also have lower recidivism rates. As will be shown later on, all three of these items are also used in the Nevada Parole Board risk instrument.

Table 2 portrays the 11 risk instrument items by the aforementioned recidivism rates. As the table shows 8 of the 11 items have positive and statistically significant associations with recidivism. The one possible exception is the sex item which is in the proper direction but not statistically significant. Note that the sex/recidivism relationship is stronger in Table 1 which has more prisoners in the analysis. The risk based data file only has 3,662 releases versus the entire 2008 release sample of 5,693. So the use of gender remains valid.

The large number of missing cases in the current validation sample has other implications beyond the one noted for the gender variable. It would appear that the missing cases as a group have a slightly lower overall recidivism rate (20% versus the 24.2% rate for released prisoners with a risk assessment record in the data base. As with the gender variable such a difference in the recidivism rate between the risk assessment cases and those missing such a metric can serve to weaken the analysis of the risk instrument itself as was the case for the gender item. For these reasons the validation analysis is inherently limited and caution should be taken in

**TABLE 1. General Demographic and Offense Attributes by Recidivism**

Item	N	%	% Returned
Base	5,693		22.6%
<b>Age at Release</b>			
27 and below	1,613	28.3%	26.1%
28-37	1,827	32.1%	22.7%
38-47	1,451	25.5%	22.2%
48-57	647	11.4%	17.0%
58-67	139	2.4%	13.7%
68-77	16	0.3%	0.0%
<b>Gender</b>			
Female	737	12.9%	20.1%
Male	4,956	87.1%	23.0%
<b>Highest Offense Severity</b>			
Unknown	96	1.7%	33.3%
Highest	737	12.9%	18.3%
High	1,202	21.1%	17.2%
Moderate	1,679	29.5%	23.0%
Low Moderate	1,544	27.1%	26.9%
Low	435	7.6%	25.5%
<b>Most Serious Offense</b>			
Unknown	115	2.0%	31.3%
Murder	94	1.7%	18.1%
Sex	268	4.7%	16.0%
Assault/battery	494	8.7%	15.8%
Robbery	298	5.2%	19.5%
Other violent	255	4.5%	20.8%
Drug sale	631	11.1%	16.3%
Drug possession.	441	7.7%	25.2%
Burglary	754	13.2%	25.1%
Theft/fraud/forgery	1,424	25.0%	29.6%
Weapons	214	3.8%	22.4%
DUI	303	5.3%	11.2%
Other property	105	1.8%	18.1%
Other non-violent	297	5.2%	25.9%

Source: NDOC Data File

making any significant changes to some of the items that in previous validation studies with more complete data have shown to be predictive.

There are three items that are not related to recidivism (NDOC Treatment Programs, Disciplinary Reports and Inmate Custody Level) and require further discussion as they do show a statistical relationship with recidivism.

With regard to Item 9 - NDOC Treatment programs, the current definition for receiving credits for program completion results in nearly 2/3rds of the released inmates being so scored. Unfortunately, those who did receive credits for this item actually have a higher recidivism rate than those who have not completed such programs (26% versus 21%).

Further, when we asked the NDOC to list those programs that inmates should have received credits two observations can be made. First, the percent of inmates receiving such credits is quite low (under 10%). Second, there is little relationship between completion of the programs and recidivism (Table 3).

The NDOC has received technical assistance from a consultant on how to improve these results. According to the NDOC, the consultant has recommended that only inmates who are not assessed as low risk should be allowed to enroll in these programs. If a substantial number of low risk prisoners do occupy the program slots, it will have negative results. Several studies have found that assigning low risk inmates to treatment programs can actually increase the expected rate of recidivism.

One indication that this is occurring is shown in Table 4. Here one can see that of the inmates scored for risk assessment, about 28% were already low risk and required no such intervention. In order for the rehabilitative programs to have a larger impact they must be more directed at the moderate and high-risk prisoner. And of course they must be of sufficient quality to also have an impact. The DOC is going to launch an effort to address both the selection and quality of service components. To that end, during the last year, NDOC has made a commitment to incorporate evidence-based practices into its substance abuse treatment programs. To that end, NDOC has hired administrative staff with a high level of expertise in developing, implementing, and managing evidence-based practices for corrections agencies.

**TABLE 2. Nevada Parole Board Risk Instrument Items and Recidivism**

Item	N	%	% Returned	Item	N	%	% Returned
Base	3,662		24.2%	Base	3,662		24.2%
1. Age at First Arrest				7. Current Age			
25 or older	819	22.4%	14.0%	41 and above	1,155	31.5%	22.0%
20-24	995	27.2%	21.8%	31-40	1,092	29.8%	23.4%
19 or younger	1,848	50.5%	30.0%	21-30	1,306	35.7%	26.3%
2. Prior Revocations				Under 21	109	3.0%	32.1%
None	1,337	36.5%	16.0%	8. Active Gang Member			
One or more	2,325	63.5%	28.9%	No	3,000	81.9%	23.8%
3. Employment History				Yes	662	18.1%	26.1%
Satisfactory full time >1 yr	879	24.0%	15.7%	9. DOC Certified Ed/Voc/Treat program			
Employed less than 1 yr	1,327	36.2%	25.0%	Yes	2,414	65.9%	25.7%
Unsatisfactory	1,456	39.8%	28.6%	No	1,248	34.1%	21.3%
4. Current or Prior Conviction				10. Disciplinary Conduct Past Year			
All others	990	27.0%	12.3%	No major	3,063	83.6%	24.2%
Property, robbery, forgery, etc.	2,672	73.0%	28.6%	Multiple minor	290	7.9%	29.0%
5. History of Drug/Alcohol Abuse				Major	260	7.1%	20.0%
None	162	4.4%	17.3%	Multiple major	49	1.3%	22.4%
Some	419	11.4%	19.6%	11. Current Custody Level			
Frequent/serious	3,081	84.1%	25.2%	Minimum	1,441	39.4%	25.0%
6. Gender				Medium	2,066	56.4%	23.6%
Male	3,123	85.3%	24.6%	Maximum	154	4.2%	24.7%
Female	539	14.7%	22.3%				

Source: NDOC Data File

**TABLE 3. Released Inmates Who Completed Treatment Programs**

Item	N	%	% Returned
Base	5,693		22.6%
Addiction Prevention			
Other	5,279	92.7%	22.5%
Yes	414	7.3%	24.2%
Anger Management			
Other	5,402	94.9%	22.3%
Yes	291	5.1%	27.8%
Cage Your Rage			
Other	5,572	97.9%	22.7%
Yes	121	2.1%	16.5%
Commitment to Change			
Other	5,299	93.1%	22.3%
Yes	394	6.9%	26.9%
Domestic Violence			
Other	5,642	99.1%	22.7%
Yes	51	0.9%	15.7%
Education			
Other	5,350	94.0%	22.7%
Yes	343	6.0%	21.6%
Emotions Management			
Other	5,607	98.5%	22.7%
Yes	86	1.5%	19.8%
GED			
Other	5,492	96.5%	22.6%
Yes	201	3.5%	23.4%
High School Diploma			
Other	5,534	97.2%	22.7%
Yes	159	2.8%	20.1%
OASIS			
Other	5,479	96.2%	22.6%
Yes	214	3.8%	23.4%
Victim Awareness			
Other	5,519	96.9%	22.6%
Yes	174	3.1%	23.0%

Source: NDOC Data File

**Table 4. Released Prisoners Receiving Treatment/Rehab Points  
By Risk Level**

<b>Total Risk Level Points and Risk Level</b>	<b>Number Receiving Treatment Points</b>	<b>% of Total Receiving Treatment Point</b>
-3	3	0%
-2	13	1%
-1	31	1%
0	47	2%
1	86	4%
2	106	4%
3	170	7%
4	231	10%
Low Risk	687	28%
5	296	12%
6	319	13%
7	323	13%
8	282	12%
9	245	10%
10	143	6%
Moderate Risk	1,608	67%
11	48	2%
12	32	1%
13	18	1%
14	11	0%
15	4	0%
16	4	0%
17	2	0%
High Risk	119	5%
Totals	2,414	1247

Source: NDOC Data File

The staff has begun conducting quality assurance reviews and needs assessments of all the statewide therapeutic communities. Based on those initial activities, at a minimum, NDOC proposes to greatly enhance the quality and array of effective correctional programs and services beginning this year.

The other two dynamic items related to inmate conduct and custody level. As shown in Table 2, there is no relationship between the inmate’s classification and only a partial relationship between the inmate’s disciplinary record and recidivism.

Regarding the latter item, inmate’s with multiple minor conduct records have significantly higher rates as compared to those with no misconducts or only major conducts. The multiple misconducts may be a precursor to persons who are unlikely to conform not only to the prison rules but also parole regulations.

Overall the static factors are the best predictors of recidivism while the dynamic ones have at best mixed results. The relative difference between the two scales can be seen in Tables 5 and 6. Whereas the static factors show a fairly standard progressive or incremental increase in the recidivism rates as the points increase, no such pattern can be discerned for the dynamic factors. This is expected given the lack of association for the dynamic factors with recidivism rates.

**Table 5. Static Points and Recidivist Rates**

Score	Static		
	N	%	% Returned
Base	3,662	100.0%	24.2%
1	26	0.7%	0.0%
2	34	0.9%	0.0%
3	123	3.4%	3.3%
4	163	4.5%	5.5%
5	256	7.0%	8.2%
6	353	9.6%	13.9%
7	450	12.3%	21.6%
8	623	17.0%	27.9%
9	712	19.4%	28.5%
10	569	15.5%	35.7%
11	353	9.6%	36.0%

Source: NDOC Data File

**Table 6. Dynamic Points and Recidivist Rates**

Score	N	%	% Returned
-4	326	8.9%	22.4%
-3	746	20.4%	21.6%
-2	769	21.0%	24.7%
-1	716	19.6%	26.1%
0	498	13.6%	26.5%
1	282	7.7%	27.0%
2	160	4.4%	20.0%
3	84	2.3%	21.6%
4	46	1.3%	4.3%
5	15	0.4%	13.3%
6	11	0.3%	36.4%
7	6	0.2%	33.3%
8	2	0.1%	50.0%

Source: NDOC Data File

Table 7 shows these same results when both the static and dynamic points are combined. Note that the combined score does a reasonable job of identifying the low and moderate risk inmates. But it does not perform well when in identifying the higher risk inmates. Again this is being caused by several of the dynamic factors not being associated with recidivism for the 2009 release cohort.



**Table 7. Total Points and Recidivist Rates**

	N	%	% Returned
Total Score	3,662		24.2%
-3	3	0.1%	0.0%
-2	13	0.4%	0.0%
-1	39	1.1%	0.0%
0	55	1.5%	7.3%
1	100	2.7%	5.0%
2	148	4.0%	8.1%
3	226	6.2%	11.5%
4	314	8.6%	16.2%
5	397	10.8%	21.2%
6	437	11.9%	23.6%
7	467	12.8%	26.1%
8	466	12.7%	32.4%
9	406	11.1%	35.5%
10	306	8.4%	39.2%
11	104	2.8%	22.1%
12	85	2.3%	21.2%
13	50	1.4%	22.0%
14	24	0.7%	29.2%
15	9	0.2%	22.2%
16	4	0.1%	25.0%
17	6	0.2%	16.7%
18	2	0.1%	50.0%

### **Parole Board Decision-Making – Combining Risk and Offense Severity**

The other key component of the Parole Board’s guideline is the use of offense severity in rendering its decisions. As suggested above, this part of the decision-process may be contradictory to the risk assessment component as prisoners convicted of the most serious crimes (murder, manslaughter, rape, assault, and drug sales) tend to have significantly lower recidivism rates. However, the Board is mandated to take into account the severity of the crime which means that persons charged with the more serious crimes will have lower parole grant rates.

Tables 7, 8 and 9 show the Board’s grant rates for discretionary parole, mandatory release and the overall or combined parole rates. All three tables show that both the risk level and the offense severity are strong predictors of the Board’s decisions. To begin with the overall parole rate is 61% which is completely consistent with the low recidivism rates described earlier. It should be added that compared to most other parole boards in the U.S. it is one of the higher grant rates.

Second both the offense severity and the risk level produce consistent and valid parole decisions. As shown in Table 8, inmates who are low risk and low offense severity have a 97% chance of being paroled. Conversely, prisoners who are high offense severity and high risk have only an 8% chance of being paroled. This same pattern can be found for the mandatory parole decisions. Low risk and low severity cases have a 100% chance if being paroled while the high risk and high offense severity have only a 10% chance of being paroled. As the ratings move for the other categories of risk and offense severity, the parole rates increase and decline consistent with the designations of risk and offense severity.

	Risk Level			
Severity	High Risk	Mod Risk	Low Risk	Total
Highest	8%	58%	52%	49%
High	8%	58%	72%	51%
Moderate	5%	75%	92%	65%
Low Mod	19%	79%	86%	70%
Low	38%	91%	97%	88%
Total	10%	71%	70%	61%

<b>Table 9. Mandatory Grant Rates</b>				
	Risk Level			
Severity	High Risk	Mod Risk	Low Risk	Total
Highest	10%	67%	67%	55%
High	14%	74%	76%	60%
Moderate	19%	84%	90%	66%
Low Mod	32%	81%	91%	67%
Low	50%	82%	100%	72%
Total	20%	78%	79%	62%

<b>Table 10. Combined Parole Grant Rates</b>				
	Risk Level			
Severity	High Risk	Mod Risk	Low Risk	Total
Highest	9%	61%	54%	51%
High	10%	63%	73%	54%
Moderate	11%	79%	92%	65%
Low Mod	24%	80%	88%	70%
Low	43%	91%	97%	87%
Total	14%	73%	72%	61%

## **Conclusions and Recommendations**

1. The Nevada Parole Board uses and risk and offense severity to render its parole decisions. This means that inmates are paroled based on the severity of their crimes and the risk to public safety.
2. The parole grant rate of 60+ percent is consistent with the overall Nevada three-year return to prison rate of 27% which is well below the national rate of approximately 40%.
3. This grant rate has been a key component in the state being able to stabilize and lower its prison population since 2008 from 13,500 in 2008 to 12,800 by 2012. While this decline has occurred the Nevada crime rate has continued to decline.

4. Most of the factors used by the Board for risk assessment are associated with recidivism and are valid predictors.
5. However, there are four dynamic factors that are currently not showing predictive attributes. In previous studies they have been predictive. Given the problems with the data file noted earlier we are reluctant to remove them but feel the following modifications are warranted.
  - a. Regarding the inmate classification level, that variable should remain as is as it reflects an inmate's willingness and ability to conform to correctional policies and rules. Further, the inmate classification ranking has been shown in the prior Nevada (and other state) recidivism studies to be associated with recidivism.
  - b. Inmate misconduct should be modified so that it is an ordinal variable where inmates conduct during the past 12 months is scored as follows:
    - i. No misconduct of any kind = -1
    - ii. One misconduct of any kind = 0
    - iii. 2 misconducts of any kind = -1
    - iv. 3 or more misconducts of any kind = 2
  - c. Completion of treatment programs should be counted only for the following obtaining a GED, High School and above formal degree, or a vocational training program. Furthermore, as other programs are certified by the NDOC in terms of their efficacy, they will be counted with inmates receiving a score of -1 points.
  - d. Gang membership should NOT include those suspected as gang membership. An analysis of that group found that their recidivism rate was 20% -- below the overall average of 23%.
6. Given the low recidivism rate for the inmate cohort as a whole, the risk levels should be modified as follows:
  - Low Risk = 5 points or less
  - Moderate Risk - 6- 11 points
  - Higher Risk = 12 points and above.

With respect to modeling these changes it is not possible to assess the impact of the changes proposed to the treatment and disciplinary items as the data are not defined as precisely as is

being proposed. However, it is possible to change the gang membership and scale cut-off changes. Table 11 shows these results. Here one can see that the proposed changes would serve to increase the number of low and moderate risk groups and reduce the higher risk group. Specifically, 418 inmates who were scored as moderate risk would be scored as low risk. Another 114 inmates who were high risk would be scored as moderate risk. All total these 532 inmates represent about 15% of the 2009 release cohort.

Task 11. Current and Proposed Risk Levels Based on 2009 Release Cohort  
with a Risk Instrument

Current Risk Level	Proposed Risk			
Current	Higher	Moderate	Low	Total
High	170	<b>114</b>	0	284
Moderate	0	2,061	<b>418</b>	2,479
Low	0	0	898	898
Total	170	2,175	1,316	3,661

## Appendix A

### NEVADA PAROLE RISK ASSESSMENT

Name	ID Number	Location	Date
<b>Static Risk Factors</b>	<b>Pts</b>	<b>Dynamic Risk Factors</b>	<b>Pts</b>
<b>1. Age at First Arrest (juvenile or adult)</b>		<b>7. Current Age</b>	
25 years or older	0	1, and above	-1
20-24 years	1	3, - 40	0
19 years or younger	2	2, - 30	1
<b>2. Prior Prob/Parole Revocation (juy. or adult)</b>		Under 21	2
No parole or probation revocations	0	<b>8. Active Gang Membership</b>	
One or more (including gross misdemeanors)	2	No	0
<b>3. Employment History (prior to arrest)</b>		Yes	2
Satisfactory full-time employment > 1 year	0	<b>9. DOC certified edu/voc/treat program</b>	
Employed less than full-time full-time < 1 year	1	Yes, or has existing GED/HIS Dipl Degree	-1
Unsatisfactory employment/unemployed/unemployable	2	No	0
<b>4. Offense for Current or Prior Convictions</b>		<b>10. Disciplinary Conduct - Past Year</b>	
All others	0	No Major Disc. Violations or Single Minor Gen	-1
Property Offense, Robbery, Forgery, etc.	2	Multiple Minor General Violations	0
<b>5. History of Drug/Alcohol Abuse</b>		Major Violation	1
None	0	Multiple Major Violations	2
Some use, no severe disruption of functioning	1	<b>11. Current Custody Level</b>	
Frequent abuse, serious disruption of functioning	2	Minimum	-1
<b>6. Gender</b>		Medium	0
Male	1	Maximum or Disciplinary Segregation	2
Female	0	<b>Total Dynamic Risk Score</b>	
<b>Total Static Risk Score</b>		<b>Total Score (Static+Dynamic Score)</b>	

\_\_\_\_\_ Low Risk = 0-4 points      \_\_\_\_\_ Medium Risk = 5-7 points      \_\_\_\_\_ High Risk = +1+ points or 8 points on Dynamic Factors

The risk assessment is based on the static and dynamic factors that are applicable at the time of a parole hearing. A change in status following the hearing that may impact the risk factors shall not be the basis for an appeal for re-computation. A prisoner will only be granted a re-hearing if a factor is misapplied at the time of the hearing, and a correction would cause a deviation from the guideline recommendation.

SUPERSEDES

EFFECTIVE DATE

February 24, 2011

XXX, XX 2012

NEVADA BOARD OF PAROLE COMMISSIONERS

**OPERATION OF THE BOARD**

REVISED  
Date, 2012

TABLE OF CONTENTS

CODE OF ETHICS.....	PAGE 3
DISCLAIMER.....	PAGE 4
LEGISLATIVE DECLARATION.....	PAGE 4
MISSION.....	PAGE 4
VISION.....	PAGE 4
PAROLE HEARINGS.....	PAGE 5-6
HEARING REPRESENTATIVES.....	PAGE 6
PANEL HEARINGS.....	PAGE 6-7
PAROLE DECISIONS.....	PAGE 7-8
CHAIRMAN’S VETO OF RECOMMENDATION TO DEVIATE FROM GUIDELINES.....	PAGE 8-9
PAROLE APPLICATIONS.....	PAGE 9
PAROLE GRANT.....	PAGE 9-10
PAROLE GRANT TO SEX OFFENDERS.....	PAGE 10
PAROLE GRANTS TO CONSECUTIVE SENTENCES & EXPIRATION OF SUBSEQUENT SENTENCE.....	PAGE 10
PAROLE DENIALS.....	PAGE 10-11
PRISONER CONDUCT.....	PAGE 11
SPECIAL CONDITIONS.....	PAGE 11
RECONSIDERATION OF UNFAVORABLE DECISION.....	PAGE 11-12
PRE-RELEASE RECISSION.....	PAGE 12-13
BOARD COMMUNICATIONS.....	PAGE 13
EARLY DISCHARGE FROM PAROLE.....	PAGE 13-14
NOTIFICATION OF PAROLE HEARINGS.....	PAGE 14
MANDATORY PAROLE RELEASE.....	PAGE 14-15
PAROLE VIOLATION HEARINGS.....	PAGE 15-17
VIOLATION HEARINGS IN ABSENTIA.....	PAGE 17
PROCEDURAL DUE PROCESS HEARINGS.....	PAGE 17-18
INSTITUTIONAL PAROLE VIOLATION HEARINGS.....	PAGE 18
POWER TO SUBPOENA.....	PAGE 18-19
RESTORATION OF STATUTORY GOOD TIME.....	PAGE 19
LIFETIME SUPERVISION HEARINGS.....	PAGE 19-20
PROCEDURE WHEN LEGISLATION WHICH MAY IMPACT PAROLE ELIGIBILITY DATES IS PASSED INTO LAW.....	PAGE 20



# **Nevada Board of Parole Commissioners 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 hearing process, including the offender, 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 shall value, appreciate and respect the decisions and views of my colleagues.**
- **I shall cooperate with my co-workers and will 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 Parole Board while dedicating myself to my chosen profession.**

## **DISCLAIMER**

**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:**

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:**

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 the goal of successfully reintegrating offenders back into society.

### **VISION:**

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:**

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 prisoners. Inquiries regarding credits earned, parole eligibility and expirations of prison and parole terms shall be directed to the NDOC sentence management office, 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 ~~213.130~~ 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 allowed by Nevada law 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 and inmates are notified of the decision. This ratification process will take place as soon as practical, with notification taking place within 10 working days from the ratification of the vote.
6. Under the provisions of Section 4, NRS ~~213.130~~ 213.131, the Board may deliberate in private following a public hearing held to consider an applicant for parole. The Board often considers information which must, by law, be classified as confidential, including information obtained by parole and probation officers, employees of the Board, and confidential victim information (NRS 213.1075).
7. Parole is an act of grace by the State of Nevada and the release of a prisoner from confinement after serving a portion of their sentence is discretionary. While on parole, the prisoner remains subject to the jurisdiction of the Board, under the supervision of the Nevada Division of Parole and Probation (P&P) until they have completed their sentence or have been granted early discharge.
8. Parole hearings on eligible inmates are conducted generally three months in advance of minimum parole eligibility dates. In the event a prisoner is not seen during the month in which their name appears on an eligibility list, the prisoner will be rescheduled once their name is re-submitted to the Board on an eligibility list. The Board will not add the name of a prisoner 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. If a scheduled inmate has been moved to another institution, the parole hearing ~~will generally may~~ occur ~~unless if the NDOC is able to coordinate and establish~~ a video link to the new institution ~~is unavailable, or if~~ , ~~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 his ability to prepare for the hearing. When a hearing can not take place, the panel scheduled to conduct the hearing may *make a recommendation to grant parole, or* take no action and cause the inmate to be rescheduled to a future month., ~~or make a recommendation to grant parole.~~

10. Action to deny parole may occur if an inmate refuses to attend a hearing, or refuses to sign the notice of the hearing provided the notice was served in accordance with NAC 213.534.

11. All prisoners 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 investigations. Any claims of inaccuracies in a pre-sentence investigation report should be addressed to P&P who is responsible for the preparation of these reports.

13. As directed in NRS ~~213.130~~ *213.131*, during hearings to consider prisoners for parole, the Board shall allow prisoners 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 prisoner. The presence of the representative will be at the prisoner's expense. Prisoners with physical communication disabilities, i.e. deaf/mute, are entitled to services of an interpreter at public expense.

14. Prisoners who are made immediately eligible for parole by action of the State Pardons Board 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):**

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

2. *Case* hearing representatives are assigned to panels that make recommendations to the Board, ~~but have no voting power.~~ *A recommendation made by a case hearing representative will not be counted as a final action vote.*

#### **PANEL HEARINGS (NRS 213.133):**

1. Parole hearing panels consist of one commissioner and one *case* hearing representative or two or more commissioners.

2. As directed in NRS 213.133(6) a panel of three or more commissioners will conduct hearings for those prisoners fitting 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 the criteria in section 2 above.

4. Panel recommendations are subject to ratification by a majority of members appointed to the Board.

### **PAROLE DECISIONS:**

1. The Board has adopted standards as required by NRS 213.10885, which meet the requirement of determining the prisoners probability of success on parole and providing greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime. 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. The Board complies with NRS 213.1099, which limits the Board's power to release prisoners on parole.

3. During the consideration of a prisoner by a panel consisting of two members, if the panel members are unable to concur in a recommendation to grant or deny parole, ~~the hearing may be continued in absentia to a later time or date to allow~~ a third commissioner *may be added to the panel* to participate in the deliberations. If ~~it is not convenient to continue the hearing~~ *a third commissioner is not available to participate in a timely manner*, the prisoner 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 prisoner 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 a prisoner who has received a “victim over the age of sixty” enhancement for the crime of Embezzlement or Obtaining Money greater than \$250, unless the prisoner has paid back at least 80% of the restitution imposed. The prisoner must have ability to pay. (NRS 213.1216)

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

8. Prisoners housed in other states under compact terms, *or on residential confinement*, will be considered for parole in the same manner as in-state prisoners. The Board will require a current progress report via the NDOC from the institution where the prisoner 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 the NDOC to inform it of infractions of the Inmate Disciplinary Process (AR707) by prisoners eligible for parole consideration. Prisoners 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 a prisoner if prior to their release on parole, the prisoner 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 a prisoner has been granted parole.

12. The Board may take action to rescind the parole of a prisoner if adverse information, absent at the time the panel considered the prisoner 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:**

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, 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. Veto of paroles granted (deviation under):**

1. The panel will consider the chairman’s reasons for denying 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 prisoner 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.

**B. Veto of paroles denied (deviation over):**

1. The panel will consider the chairman's reason for not wanting to deny parole, or the reasons for a lesser denial period than the original panel recommendation, to assist them in determining whether to grant parole or an appropriate period of denial.
2. In the event that the chairman does not concur in the panel recommendation after further review, the prisoner will be rescheduled for a hearing one year from the date of the current parole eligibility.

**PAROLE APPLICATIONS:**

1. A prisoner does not need to prepare a formal application for parole. The NDOC will determine when each prisoner 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 progress reports provided by prison staff shall include, but not limited to, offense details, program participation, sentence structure, disciplinary history, summary of criminal history, release plans, and risk assessment.
3. Prisoners convicted of capital offenses in which the death penalty, or life without the possibility of parole have been imposed, but whose sentences have been commuted, and have served 20 consecutive years in NDOC will be considered by a panel of three or more commissioners.

**PAROLE GRANT:**

1. Prisoners cannot be released on parole prior to attaining their minimum parole eligibility. This includes to a consecutive sentence. The NDOC is responsible to provide the Board with the prisoners minimum eligibility dates.
2. Grants of parole may be made at initial parole eligibility or at any subsequent hearing after a denial. If the grant occurs at a subsequent hearing the release date will be at the Board's discretion.
3. Parole to the community requires an investigation and approval by P&P. In accordance with NRS 213.140, if the plan is not approved, P&P shall assist the inmate in developing a new plan. If the inmate refuses to cooperate with P&P in the development of a new plan, the Board may conduct a hearing and rescind the previously granted parole when appropriate.
4. A parole is not considered **granted effective** until all release documents and the parole agreement have been signed by the prisoner and release is imminent. 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. P&P 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 P&P is requesting a change or modification of conditions, they should do so in writing. If the parolee is in agreement 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 will be scheduled, and the presence of the parolee and a representative of P&P shall be required.

### **PAROLE GRANTS TO SEX OFFENDERS:**

1. The Board shall not release on parole a prisoner convicted of an offense listed in ~~NRS 213.1214(5)~~ *NRS 213.1214(8)* unless a panel created pursuant to NRS 213.1214 ~~certifies that prisoner was under observation while confined in an institution and does not represent a high risk to re-offend sexually based on a currently accepted standard of assessment.~~ *conducts an evaluation and provides its results to the Board in accordance with NRS 213.1214.*

~~2. The Nevada Attorney General has determined that when a prisoner's sentence structure involves multiple sentences and one or more is for a qualifying sex offense/enhancement, a certification by the psych panel is only required on the last qualifying sentence before community release or to a non-sex offense sentence.~~

3. If a parolee serving a sentence for an offense listed in ~~NRS 213.1214(5)~~ *NRS 213.1214(8)* is returned to the custody of the NDOC for any reason, the prisoner may not be released again on parole unless ~~a psych panel re-certifies that the prisoner does not represent a high risk to re-offend sexually based upon a currently accepted standard of assessment.~~ *a panel created pursuant to NRS 213.1214 conducts an evaluation and provides its results to the Board.*

### **PAROLE GRANTS TO CONSECUTIVE SENTENCES & EXPIRATION OF SUBSEQUENT SENTENCE:**

1. A prisoner who had 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. P&P receives a viable parole plan from the prisoner (which may involve the participation of P&P in developing said plan), and;
- c. P&P conducts a pre-release investigation and approves the plan.



~~2. The failure to provide a viable release plan is grounds for possible revocation of the previous parole since it was originally granted solely to a consecutive sentence. The Division may request an institutional parole be revoked if the prisoner is expiring a sentence to parole, and he refuses to cooperate in establishing a viable release plan.~~

~~3. The NDOC is authorized to re-activate the paroled sentence upon expiration of a subsequent sentence until such time as P&P coordinates the release of the prisoner, or the Board revokes the previous parole.~~

### **PAROLE DENIALS:**

1. 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 3 years, or 5 years if the offense occurred after July 1, 1995 and the remaining time left on the sentence is 10 years or more.

2. Unless the denial of parole is to expiration of the prisoners last sentence, the Board will provide the prisoner, in writing, recommendations to improve the possibility for future parole. (NAC 213.536)

### **PRISONER CONDUCT:**

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.

### **SPECIAL CONDITIONS:**

1. The Board has set the standard conditions of parole which are reflected on the parole agreement prepared and issued by P&P. In addition to those conditions, the Board may require other special conditions to assure a successful parole such as house arrest, special programming, no victim contact, off limit areas, or any other reasonable conditions.

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

3. Because parolees are very often requested by law enforcement officials to act as informants and undercover agents, and in such capacities are exposed to the environment and associates which had been detrimental to their welfare in the past, the Board directs that parole officers be instructed to prohibit parolees under their supervision from becoming informants or undercover agents for law

enforcement agencies, unless the Chief of P&P directs otherwise and informs the Board in writing.

**RECONSIDERATION OF UNFAVORABLE ACTION;**

1. Prisoners 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 within 45 days of the parole hearing and must provide facts that existed at the time of the original assessment and or hearing.

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

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 hearing or a factor was not given appropriate weight, the risk level will be reassessed. If the risk level is lower than the previously assigned risk level, and after application of the new risk level to the parole assessment, causes a more favorable guideline recommendation to the prisoner, a new hearing will be scheduled to reconsider parole.

4. Requests for review other than crime severity or risk levels may be performed only 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 prisoners are not usually considered adequate reasons for advancement.

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

**PRE-RELEASE RESCISSION/REVIEW PREVIOUS ORDER (RPO - NAC 213.545):**

1. If, up to 3 working days before the scheduled release of the prisoner on parole, P&P becomes aware of information which provides grounds to rescind the parole, to include violations of AR707, they may delay release of the prisoner for up to 3 working days after the scheduled release date.

2. If the information will result in detaining the prisoner beyond the release date specified on the parole order, P&P must notify the Board of this information, ~~preferably~~ in writing.

3. Upon receipt of information which may be grounds for rescission, a member of the Board may order a delay in the release of the prisoner to allow time for the Board to consider rescission. This order must be within 3 days after the prisoner was scheduled to be released, otherwise the prisoner must be released.

4. If a member of the Board orders the delay of the release, as soon as practicable:

- a. a hearing will be scheduled, or
- b. if a majority of the Board states in writing that the parole should not be rescinded, the prisoner shall be released as previously ordered.

5. A prisoner 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 not limited to, major violations of the inmate disciplinary procedure, changes in sentence structure, inmate escapes, or a documented victim statement was not received.

#### **BOARD COMMUNICATIONS:**

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 pursuant to NRS ~~213.130~~ 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 and counsel to the Board when required. 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 pursuant to NRS ~~213.130~~ 213.131. The Board is not held 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:**

1. The Board, upon recommendation of P&P and in accordance with NRS 176.033(2) may petition the sentencing court for early discharge from parole for those demonstrating exemplary conduct on parole and who have completed the required amount of time served in prison and on parole.

2. Requests for early discharge are initiated by the Chief Parole and Probation Officer or his agent.

#### **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):**

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. Prisoners with sentences of three or more years, excluding life sentences, are subject to MPR consideration which mandates the release of the prisoner unless they meet the following criteria:

- a. Have a consecutive sentence.
- b. Have been revoked on the sentence that is currently being served.
- c. Is 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 prisoners with active holds can only be to the hold.

4. In determining whether to release a prisoner on parole pursuant to NRS 213.1099 (discretionary), the Board shall not consider whether the prisoner will soon be eligible for release pursuant to NRS

213.1215 (mandatory).

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

6. In accordance with NRS 213.1215(2), if a prisoner 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 if the prisoner has a consecutive sentence to be served.

7. In accordance with NRS 213.1215(2), if a prisoner 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 prisoner;

- a. Has served the minimum term imposed by the judge,
- b. Has completed a program of general education or an industrial or vocational program,
- 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.

8. 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, 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.

**PAROLE VIOLATION HEARINGS (NRS 213.150-NRS 213.153, NAC 213.550):**

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

2. P&P is responsible for the supervision of all parolees in the community. P&P also files charges of parole violation 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 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.
6. The Board considers only those cases in which the alleged violators and/or counsel have received notice of charges, and a copy of allegations and evidence to be used against them.
7. It is the concern of the Board that parolees be allowed adequate time after written notification of the parole violation charge to prepare a defense to present at the preliminary hearing. Accordingly, the Board prefers that P&P, unless the parolee at any time before or after the applicable time period waives the preliminary hearing, allow a period of five (5) days, excluding Sundays and holidays, after the notification of the charges, before conducting the preliminary hearing.
8. The Board shall consider the accused violator's case within 60 calendar days after their return to the custody of NDOC, or placement in residential confinement. 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.
9. The alleged violator may with good cause request the violation hearing be continued to the next scheduled hearing 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.
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.
11. 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.
12. The alleged violator may be represented by a private attorney of their choice at their expense, or a public defender if indigent.
13. 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.
14. An alleged violator has the right to confront adverse witnesses, but must indicate the wish to do so on the notice of charges in order for P&P to schedule the witness to appear. The Board may grant a continuance, without violating the "60 day rule" for prompt hearing, if the parolee requests to confront an adverse witness not present and not previously noted on the notice of charges.
15. 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.

16. 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.

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

18. The alleged violator must submit to the NDOC (if in prison custody), and P&P, 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.

19. All witnesses providing testimony at the violation hearing, with the exception of the parolee and the presenting P&P employee, must do so under oath, which will be administered by a member of the Board.

20. 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.

#### **VIOLATION HEARINGS IN ABSENTIA (NRS 213.15187/AB80):**

1. If a parolee is convicted for the commission of a new crime in a foreign jurisdiction and is sentenced to a period of imprisonment, the parolee is not entitled to earn time on the Nevada sentence until completing the sentence imposed in the foreign jurisdiction (if the new offense was committed on or after March 16, 1999).

2. If the parolee waives their right to a personal hearing, the Board may take action to revoke or reinstate the parole of the prisoner immediately or at a later date and allow the Nevada sentence to run concurrent to the new conviction, or take no action at all. If the Board chooses to take no action, the parolee will not earn time on the sentence and will be scheduled to appear before the Board for a personal violation hearing within 60 days of their return to the NDOC.

3. P&P will provide the pertinent documents to the parolee and advise them of their rights. Upon receipt of a signed waiver, P&P will schedule a hearing as soon as practical, but should not be more than 60 days from the date of receipt or the signed waiver.

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

5. If the parolee refuses to sign a waiver, they will be scheduled for a personal hearing within 60 days of being returned to the custody of the NDOC.

### **PROCEDURAL DUE PROCESS HEARINGS:**

1. In the event an inmate is released on parole when **they are** not eligible, or an error in parole related actions occur after an inmate has begun serving a parole, if the correction to the error results in a loss of liberty or time served on a sentence, the parolee shall be afforded procedural due process before the correction is made.

2. The same protections afforded a parole violator shall be afforded to the subject of a procedural due process hearing.

3. A revocation of parole which occurs during a procedural due process hearing which is not related to a violation of the conditions of parole shall not be deemed a punitive revocation, but a procedural revocation. A procedural revocation shall not be used as an aggravating factor during the future consideration of parole or community supervision.

### **INSTITUTIONAL PAROLE REVOCATION HEARINGS:**

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 judgement 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:**

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:**

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.