

FILED NOV 19 1984 ERMA PAULUS SECRETARY OF STATE

CERTIFICATE AND ORDER for FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on November 19, 1984 (Date) to become effective November 19, 1984 (Date).

The within matter having come before the Oregon Board of Parole after all procedures having been in the required form and conducted in statutes and rules and being fully advised in the premises.

Handwritten notes: 75-005 amended not listed 75-006 " 75-001 here is diff than the perm 2/28/85

Notice of Intended Action Published in OAR Bulletin: No [X] Yes

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. [ ] or Temp. [X]

Adopted: (New Rules) 255-75-001, 255-75-003, 255-75-007, 255-75-008, 255-75-026, 255-75-031, 255-75-036, 255-75-046, 255-75-056, 255-75-076, 75-078, 75-095, 75-096

Amended: (Existing Rules) 255-75-015, 255-75-025, 255-75-030, 255-75-035, 255-75-045, 255-75-065, 255-75-070, 255-75-085, 255-75-090

Suspended: (Temporary Only)

Repealed: (Existing Rules) 255-75-010, 255-75-020, 255-75-040, 255-75-042, 255-75-050, 255-75-060, 255-75-080, 255-75-082

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 19 day of November, 1984.

By: Hazel G. Hays (Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS 179.040 and 423.060

Subject Matter: The rule is being adopted to establish uniform guidelines for conducting parole violation hearings on clients who have allegedly violated conditions of parole.

Statement of Need Attached: [X] Fiscal Impact Attached: [X] For Further Information Contact: Erma E. Hepburn, Executive Director Phone: 378-2334 April M. Lackey, Operations Manager.

CERTIFICATE AND ORDER for FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on November 19, 1984 (Date) to become effective November 19, 1984 (Date).

The within matter having come before the Oregon Board of Parole (Agency) after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No [X] Yes [ ] Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. [ ] or Temp. [X]

Adopted: (New Rules) 255-75-078, 255-75-095, 255-75-096

Amended: (Existing Rules)

Suspended: (Temporary Only)

Repealed: (Existing Rules)

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 19 day of November, 1984.

By: Hazel G. Hays (Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS 179.040 and 423.060

Subject Matter: The rule is being adopted to establish uniform guidelines for conducting parole violation hearings on clients who have allegedly violated conditions of parole.

Statement of Need Attached: [X] Fiscal Impact Attached: [X] For Further Information Contact: Erma E. Hepburn, Executive Director Phone: 378-2334 April M. Lackey, Operations Manager

BEFORE THE  
OREGON STATE BOARD OF PAROLE

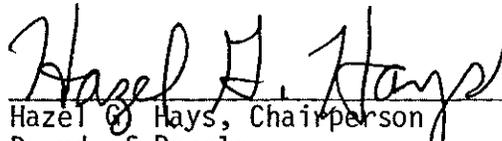
In the Matter of the Adoption )  
of the Rule Governing Procedures )  
for Revocation of Parole )

STATEMENT OF JUSTIFICATION

The Parole Board is temporarily adopting the aboved named rule which is amending the existing rule adopted August 1982 under the same rule numbers and found not to meet changes due to the process being conducted by the Corrections Division.

- (a) Statutory Authority : ORS 179.040; 423.060.
- (b) Need for Rule : The rule is being temporarily adopted to establish uniform guidelines for conducting hearings on clients who have allegedly violated conditions of parole.
- (c) Documents Relied Upon : None.

November 19, 1984  
Date

  
\_\_\_\_\_  
Hazel G. Hays, Chairperson  
Board of Parole

DIVISION 75  
PROCEDURES FOR  
REVOCATION OF PAROLE

255-75-001 Suspension of Parole; Citation

(1) When the Board is informed of reasonable grounds to believe a person has violated the conditions of parole and that revocation of parole or extension of the conditional discharge date may be justified, the Board may:

(a) Suspend parole and order the parolee arrested and detained pending a parole revocation hearing; or

(b) Issue a citation to appear at a parole revocation hearing, without first suspending parole or ordering detention.

255-75-003 Criteria For Allowing Parolee To Remain In Community Pending Hearing

In determining whether to allow a parolee to remain in the community pending the parole revocation hearing, the Board may consider:

(a) The seriousness of the allegations and the risk to the community;

(b) The likelihood of the parolee absconding or failing to appear at the hearing;

(c) The availability of bail (when applicable);

(d) The availability of resources in the community such as residence and/or employment;

(e) Any recommendation by the parole officer.

255-75-005 Hearing Requirement: Procedure [Time; Place; Presiding Officer];

Before the Board can revoke parole, it shall conduct a hearing according to the procedures in this Division.[:]

- [(1) The hearing shall be held within a reasonable time after the Board is notified of the alleged violations and reasonably near the place of the alleged violations or the place of confinement;
- (2) The hearing may be conducted by a Parole Board Hearings Officer.]

255-75-006 Method of Hearing [Utilization of Conference Call Hearing; Objections to Conference Call Procedure; Determination of Situation Requiring On-Site Hearings]

All hearings [under Division 75] shall be conducted by conference telephone call. Exceptions [to the rule] will be made [only] in the following situations by the hearings officer when:

- (1) [Where] [t]The alleged violations are contested and [there is an affirmative showing by either] the parolee or [his/her] attorney show that the credibility of the witness[es], including observation of [their] his/her demeanor[,], would be necessary. [a primary issue for determination by the Hearings Officer;]
- (2) Physical exhibits are to be [made a] part of the record and viewing of the exhibits would be essential. [in determining whether a violation of parole has occurred;]
- (3) There are unusual circumstances not covered by this section, to be determined at the discretion of the hearings officer. [At the discretion of the Hearings Officer in situations not covered by either sections (1) or (2) of this rule.]

255-75-007 Presiding Officer; Designated Representative

- (1) The Board or its designated representative shall conduct the hearing.
- (2) "Designated representative" shall include those persons designated by the Corrections Division as Hearings Officer.

**255-75-008   Location of Hearing**

The hearing will be held in or near the community where the violation is alleged to have occurred or where the parolee is in custody.

**[255-75-010   Board Action Upon Notification of Alleged Parole Violation; Criteria for; Release of Parolee Pending Hearing**

- (1) When the Board is informed of reasonable grounds to believe a person has violated the conditions of his/her parole and that revocation of parole may be justified, the Board may:
  - (a) Suspend parole and order the parolee arrested and detained pending a parole revocation hearing;
  - (b) Suspend parole pending a parole revocation hearing without detaining the parolee;
  - (c) Continue parole and order a parole revocation hearing.
  
- (2) In determining whether to allow a parolee to remain in the community pending the parole revocation hearing, the Board shall consider:
  - (a) The risk presented by the parolee in light of the nature and seriousness of the allegations;
  - (b) The risk of the parolee absconding or failing to appear for the hearing;
  - (c) The availability of bail when applicable;
  - (d) The availability of resources or special situations in the community, including employment or school, evaluation or placement in a treatment program, medical emergencies or work release;
  - (e) Any recommendation by the parole officer.]

**255-75-015   Procedures When Parolee Is In Another Jurisdiction: Return of Parolee [Hearing Requirement]**

- (1) The Board may suspend a parole and order the parolee's return to prison in Oregon without first conducting a hearing when:

- (a) The parolee has left the state to which he/she was paroled without permission and is in custody in another jurisdiction;
  - (b) The parolee is in federal custody;
  - [(c) The parolee has absconded from supervision and his/her whereabouts are unknown;]
  - (c) [(d)] The parolee has been convicted of a new crime in another jurisdiction.
- (2) After the parolee is returned to prison in Oregon, he/she shall be given a parole revocation hearing according to the provisions of this D[d]ivision.

**[255-75-020 Rights of a Parolee at a Formal Hearing**

The parolee shall have the rights listed in ORS 144.343(4) at a parole revocation hearing.]

**255-75-025 Notice of [Alleged Parole Violation and] Hearing**

- (1) The parolee shall be [given] provided written notice of hearing at least three (3) calendar days prior to the hearing.
  - (2) The hearing notice will include:
    - (a) Notice of Rights;
    - (b) Written statement of alleged violations
    - (c) Any documents or evidence which form the basis of the alleged violation.
  - (3) The parolee may elect to waive the 3-day notification period prior to the hearing and begin the hearing immediately with the hearings officer taping the parolee's verbal statement.
- [(2) Notice shall be given at a personal interview with the parolee or by other means which will assure that the parolee has received and understood the required notice.]

**255-75-026 Waiver of Hearing**

- (1) In all cases, the parolee may waive the right to a hearing by signing a Notice of Rights, Form No. CD 923B (Attachment 1).

- (2) Waiver of the right to a hearing acknowledges there has been a violation of conditions of parole in whole or in part.
- (3) If parolee waives the right to a hearing, he/she may offer written or verbal statement pertaining to the violation.
  - (a) Written statement must be submitted to the Parole Board within 48 hours after waiver of hearing.
  - (b) Any verbal statement must be made to the hearings officer at the time of waiver.
- (4) If parolee waives the right to a hearing, the hearings officer will submit to the Parole Board the following:
  - (a) Notice of Rights form;
  - (b) Any parolee statements;
  - (c) Hearing Report Summary, Form No. CD 924B, (attachment 2); and
  - (d) Any supporting information.

255-75-030 [Waiver of Parole Revocation Hearing: When;] Rejection of Waiver[;] [Record Submitted to Board When Hearing Waived]

- [(1) After receiving notice and a full explanation of his/her rights, a parolee may waive the parole revocation hearing and the rights provided in rule 255-75-025. The parolee may submit a statement to the Board to accompany his/her waiver.]
- [(1)[(2)] If the Board is not satisfied that the waiver was made knowingly and intelligently or if it believes more information is necessary before making its decision, it may order a hearing.
- [(3) The record submitted to the Board shall consist of:
  - (a) Notice forms properly executed;
  - (b) A statement by the parolee that he/she has waived a parole revocation hearing and understands the significance of that waiver;
  - (c) Evidence supporting the alleged violations, and
  - (d) Any statements made by the parolee.]

255-75-031 Hearings Process

- (1) The parole officer most knowledgeable of the allegation(s) will present information at the hearing and arrange for the presence of witnesses for the state/county and/or evidence unless hearing is waived.
- (2) The hearings officer will make a tape recording of the hearing.

255-75-035 Representation; Determination of Ability to Pay Attorney Fees [Appointment of Counsel: Criteria; Case by Case; Affidavit of Indigency]

In all cases, the parolee is entitled to:

- (1) Board-appointed counsel at parolee's request to represent indigent parolee [if requested, the Board shall appoint counsel to represent indigent parolees at parole revocation hearings] if the parolee makes a timely and colorable claim that:
  - (a) He/she has not committed the alleged violation;
  - (b) There are substantial complex mitigating circumstances which make revocation inappropriate even if violation is admitted or a matter of record; or
  - (c) The parolee appears incapable of speaking effectively in his/her behalf.
- (2) Representation by an attorney at the parolee's own expense; [Cases shall be reviewed individually to determine whether the criteria have been met.]
- (3) Self-representation; [Parolees shall be required to submit an affidavit of indigency at the hearing.]
- (4) Upon completion of the revocation hearing, the [Board] hearings officer shall determine whether the parolee for whom counsel was appointed is able to pay a portion or all of the attorney fees [to be paid by the state.] and shall make a recommendation to the Parole Board regarding payment.
- (5) In determining whether the person is able to pay such portion, the [Board] hearings officer shall take into account the other financial obligations of the [person]parolee including any existing fines or orders to make restitution.
- L(6) If the Board determines that the person is able to pay such portion, the Board may order, as a condition of parole, that the person pay the portion to the appropriate officer of the state.]

255-75-036 Witness

- (1) Upon request of any party to the hearing, the Parole Board or a designated representative shall, or the Parole Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. The parolee will make his/her own arrangements for presenting witnesses.
- (2) Witnesses appearing under subpoena, other than the parties, state officers or employes, shall be reimbursed fees and mileage by the Parole Board as prescribed by law, provided the hearings officer certifies the testimony of the witness was relevant and material to the hearing.
- (3) The parolee may present persons with relevant information and has the right of confrontation of persons or witnesses who have presented adverse information against the parolee.
- (4) Confrontation of persons or witnesses by the parolee may be denied if the hearings officer finds that confrontation would subject the witness to risk of harm if his/her identity was disclosed.
- (5) If confrontation of persons or witnesses by the parolee is denied, the hearings officer shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

[255-75-040 **Compelling Appearance of Witnesses: If Subpoena Requested; Board Motion; Failure to Obey**

- (1) As provided in ORS 144.347, the Board has the power to subpoena witnesses and documents to a parole revocation hearing.
- (2) The Board shall issue a subpoena for any witness whose appearance at a hearing is requested.
- (3) At any time before a hearing has begun, the Board, on its own motion, may subpoena any witness or documents it feels are necessary to the full examination of the issues raised at the hearing. A hearing may be postponed to obtain the presence of a material witness or document.
- (4) The Board or party requesting a subpoena may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.]

[255-75-042 Probable Cause; Effect of Preliminary Hearing; Definition of Term; Deferral of Revocation Hearing

- (1) Evidence received by and/or the order of the court at the preliminary hearing may be used by the Board to establish that probable cause exists to believe that a violation of a condition of parole has occurred; and further, that should the parolee waive right to a preliminary hearing, such waiver shall also constitute a waiver of a hearing by the Board to determine whether there is probable cause to believe that a violation of one or more of the conditions of parole has occurred.
- (2) "Probable cause" shall be interpreted to mean a standard of proof lower than a preponderance (e.g., a reasonable belief that the violation did occur as opposed to proof by greater weight of the evidence). Such finding shall be used to support the Board decision to suspend and detain a parolee charged with the commission of a new crime. The Board may then defer completion of a parole revocation hearing until trial has been completed. In no case, however, shall a deferral following a finding of probable cause extend for a period greater than ninety (90) days from the date of the preliminary hearing or waiver.]

255-75-045 Evidence [at Parole Revocation Hearing: What May be Received]

The following evidence may be received at a parole revocation hearing:

- (1) Oral testimony under oath;
- (2) Affidavits or other sworn statements;
- (3) Evidence determined to be material, relevant, and reliable, regardless of its nature, including;
  - (a) Letters;
  - (b) Documents;
  - (c) Reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole officers, doctors, psychologists, attorneys);

- (d) Uncertified copies of letters, documents, or reports shall be admissible in a parole revocation if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable.
- (4) Evidence of criminal activity even when charges have been dismissed, not brought, or the parolee has been acquitted at trial.
- (5) Hearsay evidence[,] shall be [although] admissible. [, cannot alone form the evidentiary basis for revocation of objection is raised. This provision shall not apply to certain recognized exceptions to the hearsay rule. For Board purposes, Federal rules 803, 804, and 805 shall be utilized in determining exceptions to the hearsay rule.]
- (6) Any party to the hearing, the Parole Board or its designated representative, shall issue a subpoena upon a proper showing of relevant and reasonable scope of the documentary/physical evidence being sought. The parolee may make his/her own arrangement for presenting evidence.
- (7) The hearings officer may exclude documents/physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.
- (8) Evidence shall be handled in accordance with Corrections Division "Rule Governing Searches of Persons Under Supervision of the Corrections Division, Employees, Visitors and Their Possessions, and Control of Contraband" (#38) and "Policy Governing Investigation and Reporting of Crimes in Corrections Division Facilities and Disposition of Contraband" (#32).
- (9) The hearings officer may classify documents/physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
- (10) Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.

255-75-046 Postponement

- (1) A hearing may be postponed by the hearings officer for good cause and for a reasonable period of time.
- (2) "Good cause" includes, but is not limited to:
  - (a) Preparation of defense;
  - (b) Illness or unavailability of the parolee or other persons;
  - (c) Gathering of additional evidence; or
  - (d) Avoiding interference with an ongoing police investigation or pending prosecution.

[255-75-050 Procedure for Receiving Evidence if Good Cause Exists Not to Require Confrontation or Disclosure of an Informant's Identity

- (1) When the Board receives material evidence from a witness who is likely to be subject to an actual threat of physical or psychological harm if his/her identity is disclosed to the parolee, the Board may receive the evidence provided by the witness without requiring confrontation or disclosure of the witness' identity.
- (2) The determination whether to disclose the identity of a witness shall be made at an in-camera hearing:
  - (a) If the Hearings Officer decides good cause does not exist, the evidence shall be disclosed unless withdrawn;
  - (b) If the Hearings Officer decides good cause does exist, he/she shall state the reasons for the decision and conduct an independent examination of the witness on the record.
- (3) Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.
- (4) When a witness is unavailable, his/her statements may be received in the form of documentary evidence, following the procedures in this rule, when the Hearings Officer determines at an in-camera hearing that good cause for non-disclosure exists and supporting evidence establishes the reliability of the absent witness' statement.]

255-75-055 Reopening Hearings for New Information: Criteria;  
Procedure

- (1) After completion of a parole revocation hearing and before a final decision, the Board may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.
- (2) The parolee shall be given notice of the decision to reopen the hearing and the new information to be considered. The hearing shall conform to the procedures of this division.

255-75-056 Hearings Record

The hearings record shall include:

- (1) Hearings Report Summary; including tape of hearing (if taped)
  - (a) The tape recording will be sent to and retained by the Parole Board for one (1) year.
- (2) Written statement of alleged violations;
- (3) Supporting materials;
- (4) Notice of Rights;
- (5) Order of parole.

[255-75-060 Record of Parole Revocation Hearing

- (1) A record shall be made of the parole revocation hearing, including all evidence received and considered and a manual or mechanical recording of all oral testimony and presentations.
- (2) The record shall include evidence presented at the parole revocation hearing. Upon request, the presiding officer may hold the record open for a specified period of time to receive further evidence deemed material to the proceeding.]

255-75-065 [Hearings Officer's Report: Content; Copy to Parolee;]  
Ten-Day Waiting Period for Parolee's Arguments and  
Exceptions

[(1) After the hearing, the record of the hearing shall be given to the Board along with the report of the Hearings Officer, which shall include:

- (a) Grounds for denial of a request for Board-appointed counsel, if applicable;
- (b) Findings of fact;
- (c) A recommendation as to disposition of the case, with reasons for the recommendations; and
- (d) A proposed order;
- (e) The report may also include any exhibits submitted and a summary of the record.]

(1) [(2)] Within a reasonable time after the hearing, the Hearings Officer's report shall be provided to the parolee. Unless the right is waived, the parolee shall have 10 days from the date the report is mailed to make written exceptions and arguments to the report for the Board's consideration.

255-75-070 Final Action by the Board: Quorum to Decide; Final Order;  
Notice of Decision

(1) The Board shall consider the record, Hearings Officer's report, and exceptions and arguments. A quorum of the Board shall enter a [final decision] decision, and the individual votes of the Board members. The Board may choose to adopt the findings and recommendation with reasons of the Hearings Officer as its own when entering the final order.

(2) A copy of the final order shall be forwarded to the parolee with notice of [his/her]the right to administrative [review under Division 80 of these rules] and judicial review [under ORS 144.335].

255-75-075 Parolees Convicted of a New Crime in Another  
Jurisdiction: Return; Jurisdictional Reinstatement

If a parolee has violated his/her parole as a result of a conviction of a new crime in another jurisdiction and has been sentenced to a term in prison, the Board may:

- (1) Suspend parole and order the parolee returned to Oregon for a parole revocation hearing after serving the new sentence; or
- (2) Reinstate parole to the prison sentence in the other jurisdiction in order to consolidate jurisdiction over the parolee and allow the Oregon sentence to run concurrently. Reinstatement under these circumstances is not a recommendation for parole release.

255-75-076 Designation of Parole Failure

If the Board finds that a parolee has violated the conditions of parole but chooses to reinstate or continue parole, the reinstatement or continuation may be designated a parole failure.

255-75-078 Parole Violator With New Prison Commitment; Action Required

Parole violators returned with a new prison commitment shall be given a prison term hearing in accordance with Division 30 of these rules.

[255-75-080 Reinstatement Based on Time Served: Necessary Findings by Board; Effect on History/Risk Score

- (1) If the Board finds that a parolee has committed a violation of parole conditions which is sufficiently serious to require revocation of parole and the time the parolee has spent in custody pending final action on the parole revocation hearing is an adequate punishment for the violation, the Board may reinstate parole.
- (2) Reinstatement of parole under this rule shall be counted as a parole failure in computing a criminal history/risk assessment score under rule 255-35-015.]

[255-75-082 Authority of Revocation Panel to Set New Parole Release Date for Parole Violators]

255-75-085 Parole Violators With No New Commitment; Action Required  
[Future Disposition Hearing; Procedures; Scheduling; Board  
Action]

- (1) Parole violators returned with no new prison commitment shall receive a hearing within 90 days after return to Corrections Division facility to establish future disposition. [After parole is revoked, the Board shall conduct a hearing to establish future disposition of the prisoner within 90 days after his/her return. This hearing shall follow the procedures of a prison term hearing as provided in Division 30.]
- (2) The hearing shall follow the procedures of a prison term hearing as provided in Division 30 of these rules.
- (3) [(2)] At the future disposition hearing, the Board may:
  - (a) Set a new parole release date according to the guidelines in rule 255-75-090[85] and choose not to give credit for statutory good time earned until suspension of parole; or
  - (b) Deny further parole consideration, according to the guidelines in rule 255-75-096[0], and return all or part of the statutory good time to which the prisoner is entitled.

255-75-090 Guidelines For Reparole When No New Prison Commitment Is Present [Guidelines for Re-Release of Parole Violators: Technical Violators; New Convictions; Denial of Further Parole

- (1) Parole violators returned with [a technical violation and] no new prison commitment [for a new conviction] shall be given an additional prison term [based on] within the following guidelines unless the Board finds aggravation/mitigation or denies parole:
  - (a) [If the] V[v]iolations [did] not involving[e] a finding [at the parole revocation hearing] of new criminal activity[the prisoner] shall result in an addmtional term [serve from] of four to eight months. [unless the Board decides that the aggravation or mitigation found at the parole revocation hearing is sufficient to justify variation from this range. Variation shall not exceed two months without concurrence of at least four voting members of the Board]

- (b) [If the] V[v]iolations involving[ed] a finding [at the parole revocation hearing that] of new criminal activity [has occurred, the prisoner] shall result in an additional term of [serve from] eight to 12 months. [Unless the Board decides that the aggravation or mitigation found at the parole revocation hearing is sufficient to justify variation from this range. Variation shall not exceed four months without concurrence of at least four voting members of the Board]
- [(c) Usual, but not exclusive, factors in aggravation and mitigation are shown in Exhibit G. When applicable, the factors shown in Exhibit E may be consulted.
- (d) In setting a re-release date, the Board may consider the seriousness of the parole violator's original offense and history/risk score.
- (2) Parole violators returned with a new prison commitment shall be given a prison term according to the guidelines in Division 35;
- (a) A history/risk score reflecting the new conviction shall be calculated. When applicable, the original conviction and incarceration and the parole failure shall result in lost points;
- (b) If the sentence on the new conviction is imposed consecutive to the original commitment offense, the provisions of subsection 255-35-020(2)(e) shall govern the credit given for time served.
- (3) The Board may deny reparole consideration and require the parole violator to serve to the end of his/her sentence upon affirmative vote of at least four voting members. In cases where setting a parole violator within the guidelines of this rule would require the parole violator to serve to the end of his/her sentence, four votes are not required.]

255-75-095 Variation From Guidelines For Aggravation/Mitigation Permitted

- (1) Variation from the terms set forth in 255-75-080 (a),(b), is permitted if the Board finds aggravation or mitigation as shown in either Exhibit E or Exhibit G.

- (2) Variations from the terms set forth in 255-75-090 (a) (b) shall be those established in Division 35 of these rules and shown in Exhibit D.

255-75-096 Denial of Reparole Consideration

- (1) The Board may deny reparole consideration and require the parole violator to serve to the end of the sentence upon affirmative vote of at least four voting members.
- (2) In cases where setting a parole violator within the guidelines set forth in 255-75-090 would require the parole violator to serve to the end of the sentence, four votes are not required.

FILED

FEB 28 1985

BARBARA ROBERTS  
SECRETARY OF STATE

**CERTIFICATE AND ORDER**  
for  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on February 28, 1985 (Date) to become effective February 28, 1985 (Date).

The within matter having come before the Oregon Board of Parole (Agency) after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No  Yes  Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm.  or Temp.

Adopted:  
(New Rules) 255-75-001, 255-75-002, 255-75-003, 255-75-007,  
255-75-026, 255-75-031, 255-75-036, 255-75-046,

Amended:  
(Existing Rules) 255-75-005, 255-75-006, 255-75-015, 255-75-025,  
255-75-030, 255-75-035, 255-75-040, 255-75-042,

Suspended:  
(Temporary Only) \_\_\_\_\_

Repealed:  
(Existing Rules) 255-75-010, 255-75-020, 255-75-050, 255-75-060  
255-75-082,

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 28 day of February, 1985.

By: *Hazel M. Hayes*  
(Authorized Signer)  
Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS 179.040 and 423.060

Subject Matter: The rules are being permanently adopted to establish uniform guidelines for conducting parole violation hearings on clients who have allegedly violated conditions of parole.

Statement of Need Attached:  Fiscal Impact Attached:   
For Further Information Contact: April M. Lackey Phone: 378-2334

CERTIFICATE AND ORDER for FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

FILED FEB 27 1985 BARBARA BOBERTS SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on February 28, 1985 (Date) to become effective February 28, 1985 (Date).

The within matter having come before the Oregon Board of Parole (Agency) after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No [ ] Yes [ ] Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. [X] or Temp. [ ]

Adopted: (New Rules) 255-75-056, 255-75-076, 255-75-078, 255-75-095, 255-75-096.

Amended: (Existing Rules) 255-75-045, 255-75-055, 255-75-065, 255-75-070, 255-75-080, 255-75-085, 255-75-090.

Suspended: (Temporary Only) \_\_\_\_\_

Repealed: (Existing Rules) \_\_\_\_\_

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 28 day of February, 1985.

By: [Signature] (Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS 179.040 and 423.060

Subject Matter: The rules are being permanently adopted to establish uniform guidelines for conducting parole violation hearings on clients who have allegedly violated conditions of parole.

Statement of Need Attached: [ ] Fiscal Impact Attached: [ ] For Further Information Contact: April M. Lackey Phone: 378-2334

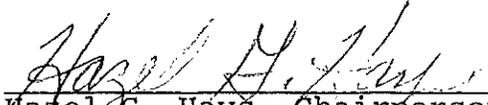
BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the )  
Adoption of the Rule )  
Governing Procedures for ) STATEMENT OF JUSTIFICATION  
Revocation of Parole )

The Parole Board is permanently adopting the above named rule which is amending the existing rule adopted August 1982 under the same rule numbers and found not to meet changes due to the process being conducted by the Corrections Division.

- (a) Statutory Authority : ORS 179.040; 423.060.
- (b) Need for Rule : The rule is being permanently adopted to establish uniform guidelines for conducting hearings on clients who have allegedly violated conditions of parole.
- (c) Documents Relied Upon : None.

February 28, 1985  
Date

  
\_\_\_\_\_  
Hazel G. Hays, Chairperson  
Board of Parole



FISCAL ANALYSIS OF (Title and Rule) RULE PER ORS 183.335 Procedures For Revocation of Parole RULE 255-75-001 to 096

<u>Effect On Revenue (By Fund):</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None
<u>Effect On Expenditures (By Fund):</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
General Fund	\$136,182	Unknown

Organizational Impact:

Organizational resources provided by Legislature for Corrections Division to administer the program through Parole Board and Corrections Division policy rule. Budget contains \$136,182 and necessary staff to operate the program.

Positions:

All staff required to administer the program were provided by the Legislature and are contained in the present Corrections Division biennium's budget.

Economic Impact: (Specify whether impact is on other state agency, local government, or the general public.)

None

Reference for Data and Methods Used RE Above

Corrections Division Budget

Prepared By Nancy Farrar/Paul Aronson Agency: Corrections Division Parole Board  
Title: Assistant Administrator / Vice-Chairperson Date: February 28, 1985  
Business Services Corrections Division Parole Board

DIVISION 75

PROCEDURES FOR  
REVOCATION OF PAROLE

255-75-001 Definitions

- (1) "Active Parole Supervision": Supervision requiring periodic contact [with the supervision officer or] and monitoring by the supervising officer to assure that [parolee has committed no new crimes or monitoring by supervising officer] the conditions of parole are being met, that the parolee has committed no new crimes and to assure repayment of [a] restitution [amount.], if required.
- (2) "Active Supervision" will not include:
  - (a) Period of confinement in local, state, or federal correctional facilities during the parole.
  - (b) The period of time between suspension of parole and the date parole is reinstated.
- [(2) "Intensive Parole Supervision":
  - (a) Supervision requiring at least monthly contact with the supervising officer; or
  - (b) Monitoring of parole by the supervising officer to assure adherence to special conditions of parole by the parolee which are by direction of the Board and not left to the discretion of the supervising officer.]
- (3) "Major Technical Violation": A violation of parole condition involving the possession of a weapon or firearm, absconding supervision by leaving the State of Oregon without permission, a new law violation not resulting in a new felony sentence, or a finding pursuant to a hearing conducted under Division 75 that new criminal activity has occurred which constitute a Class "A" misdemeanor or felony.
- (4) "Minor Technical Violation": "Violations" as described by ORS 161.565 and 161.575 and all parole violations except major technical violations and law violations.

255-75-002

Suspension of Parole; Citation

(1) When the Board is informed of reasonable grounds to believe a person has violated the conditions of parole and that revocation of parole or extension of the conditional discharge date may be justified, the Board may:

(a) Suspend parole and order the parolee arrested and detained pending a parole violation hearing; or

(b) Issue a citation to appear at a parole violation hearing, without first suspending parole or ordering detention. The citation may be effected by the Board or its designated representative.

255-75-003

Criteria For Allowing Parolee To Remain In Community Pending Hearing

In determining whether to allow a parolee to remain in the community pending the parole violation hearing, the Board may consider:

(a) The seriousness of the allegations and the risk to the community;

(b) The likelihood of the parolee absconding or failing to appear at the hearing;

(c) The availability of bail (when applicable);

(d) The availability of resources in the community such as residence and/or employment;

(e) Any recommendation by the parole officer.

255-75-005

Hearing Requirement: [Time; Place; Presiding Officer;] Procedure

Before the Board can revoke parole, it shall conduct a parole violation hearing [according to the procedures in this Division:].

(1) The hearing shall be held within a reasonable time after the Board is notified of the alleged violations and reasonably near the place of the alleged violations or the place of confinement;

[(2) The hearing may be conducted by a Parole Board Hearings Officer.]

[Utilization of Conference Call Hearing; Objections to Conference Call Procedure; Determination of Situation Requiring On-Site Hearings] Method of Hearing

[All] [h]Hearings [under Division 75] shall be conducted by conference telephone call. Exceptions [to the rule] will be made [only] in the following situations by the hearings officer when:

- (1) [Where] [t]The alleged violations are contested and [there is an affirmative showing by either] the parolee or [his/her] attorney show that the credibility of the witness[es], including observation of [their] his/her demeanor[,], would be necessary. [a primary issue for determination by the Hearings Officer;]
- (2) Physical exhibits are to be [made a] part of the record and viewing of the exhibits would be essential. [in determining whether a violation of parole has occurred;]
- (3) [At the discretion of the Hearings Officer in situations not covered by either sections (1) or (2) of this rule.] There are unusual circumstances not covered by this section, to be determined at the discretion of the Hearings Officer.
- (4) When circumstances dictate that hearings cannot be conducted by telephone conference call (i.e., no telephone available for hearings in the confining facility

Hearings Officer/Designated Representative

- (1) The Board or its designated representative shall conduct the hearing.
- (2) "Designated representative" shall include those persons designated by the Corrections Division as Hearings Officer.

Board Action Upon Notification of Alleged Parole Violation; Criteria for; Release of Parolee Pending Hearing

- (1) When the Board is informed of reasonable grounds to believe a person has violated the conditions of his/her parole and that revocation of parole may be justified, the Board may:
  - (a) Suspend parole and order the parolee arrested and detained pending a parole revocation hearing;

- (b) Suspend parole pending a parole revocation hearing without detaining the parolee;
  - (c) Continue parole and order a parole revocation hearing.
- (2) In determining whether to allow a parolee to remain in the community pending the parole revocation hearing, the Board shall consider:
- (a) The risk presented by the parolee in light of the nature and seriousness of the allegations;
  - (b) The risk of the parolee absconding or failing to appear for the hearing;
  - (c) The availability of bail when applicable;
  - (d) The availability of resources or special situations in the community, including employment or school, evaluation or placement in a treatment program, medical emergencies or work release;
  - (e) Any recommendations by the parole officer.]

255-75-015

[Hearing Requirement] Procedure when Parolee is in Another Jurisdiction; Return of Parolee

- (1) The Board may suspend a parole and order the parolee's return to prison in Oregon without first conducting a hearing when:
- (a) The Parolee has left the state to which he/she was paroled without permission and is in custody in another jurisdiction;
  - (b) The parolee is in federal custody;
  - (c) The parolee has absconded from supervision and his/her whereabouts are unknown;
  - (d) The parolee has been convicted of a new crime in another jurisdiction.
- (2) After the parolee is returned to prison in Oregon, he/she shall be given a parole revocation hearing according to the provisions of this [d]Division.

[255-75-020

Rights of a Parolee at a Formal Hearing

The parolee shall have the rights listed in ORS 144.343(4) at a parole revocation hearing.]

255-75-025

Notice of [Alleged Parole Vilation and] Hearing

- (1) The parolee shall be [given] provided written notice of hearing at least three (3) calendar days prior to the hearing.
- (2) [Notice shall be given at a personal interview with the parolee or by other means which will assure that the parolee has received and understood the required notice.] The hearing notice will include:
  - (a) Notice of Rights;
  - (b) Written statement of alleged violations;
  - (c) Any documents or evidence which form the basis of the alleged violation.
- (3) The parolee may elect to waive the three-day notification period prior to hearing and begin the hearing immediately with hearings officer taping parolee's verbal statement.

255-75-026

Waiver of Hearing

- (1) In all cases, the parolee may waive the right to a hearing by signing a Notice of Rights form.
- (2) Waiver of the right to a hearing acknowledges there has been a violation of conditions of parole in whole or in part.
- (3) If parolee waives the right to a hearing, he/she may offer written or verbal statement pertaining to the violation.
  - (a) Written statement must be submitted to the Parole Board or its designated representative within five (5) days after waiver of hearing.
  - (b) Any statement made to the designated representative at the time of waiver must be recorded.
- (4) If parolee waives the right to a hearing, the hearings officer will submit to the Parole Board the following:
  - (a) Notice of Rights form;
  - (b) Any parolee statements;
  - (c) Hearing Report Summary; and
  - (d) Any supporting information.

255-75-030 [Waiver of Parole Revocation Hearing: When;] Board Rejection of Waiver[; Record Submitted to Board When Hearing Waived]

[(1) After receiving notice and a full explanation of his/her rights, a parolee may waive the parole revocation hearing and the rights provided in Rule 255-75-025. The parolee may submit a statement to the Board to accompany his/her waiver.]

(1)[(2)] If the Board is not satisfied that the waiver was made knowingly and intelligently or if it believes more information is necessary before making its decision, it may order a hearing.

[(3) The record submitted to the Board shall consist of:

- (a) Notice forms properly executed;
- (b) A statement by the parolee that he/she has waived a parole revocation hearing and understands the significance of that waiver;
- (c) Evidence supporting the alleged violations, and
- (d) Any statement made by the parolee.]

255-75-031 Hearings Process

(1) The parole officer will present information at the hearing and arrange for the presence of witnesses for the state/county and/or evidence unless hearing is waived.

(2) The hearings officer will make a tape recording of the hearing.

255-75-035 [Appointment of Counsel: Criteria; Case by Case; Affidavit of Indigency] Representation/Determination of Ability to Pay Attorney Fees

In all cases, the parolee is entitled to:

(1) Board-appointed counsel at parolee's request to represent indigent parolee [If requested, the Board shall appoint counsel to represent indigent parolees at parole revocation hearings] if the parolee makes a timely and colorable claim that:

- (a) He/she has not committed the alleged violation;
- (b) There are substantial complex mitigating circumstances which make revocation inappropriate even if violation is admitted or a matter of record; or

(c) The parolee appears incapable of speaking effectively in his/her behalf.

(2) [Cases shall be reviewed individually to determine whether the criteria have been met.] Representation by an attorney at the parolee's own expense;

[(3) Parolee shall be required to submit an affidavit of indigency at the hearing.]

(3)[(4)] Upon completion of the [revocation] violation hearing, the [Board] Hearings Officer shall [determine whether the parolee for whom counsel was appointed is able to pay a portion or all of the attorney fees [to be paid by the state.] notify the Board of payment to be made to the appointed attorney. In those instances where counsel is refused, the grounds for refusal shall be succinctly stated in the record. Where payment is approved, such payment shall not exceed \$150 per case.

[(5) In determining whether the person is able to pay such portion, the Board shall take into account the other financial obligations of the person including any existing fines or orders to make restitution.]

[(6) If the Board determines that the person is able to pay such portion, the Board may order, as a condition of parole, that the person pay the portion to the appropriate officer of the state.]

255-75-036

Board Subpoenas; Witnesses or Documents

(1) Upon request of any party to the hearing, the Parole Board or a designated representative shall, or the Parole Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. The parolee will make his/her own arrangements for presenting witnesses. In addition, the Board may subpoena documents when relevant.

(2) Witnesses appearing under subpoena, other than the parties, state officers or employes, shall be reimbursed fees and mileage by the Parole Board as prescribed by law, provided the hearings officer certifies the testimony of the witness was relevant and material to the hearing.

(3) The parolee may present witnesses who may have relevant information and has the right of confrontation of persons or witnesses who have presented adverse information against the parolee. Confrontation of witnesses by the parolee may be denied if the hearings officer finds that confrontation would subject the witness to risk of harm if his/her identity was disclosed.

(4) If confrontation of witnesses by the parolee is denied, the hearings officer shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

255-75-040

Compelling Appearance of Witnesses: If Subpoena Requested; Board Motion; Failure to Obey

[(1) As provided in ORS 144.347, the Board has the power to subpoena witnesses and documents to a parole revocation hearing.

(2) The Board shall issue a subpoena for any witness whose appearance at a hearing is requested.

(3) At any time before a hearing has begun, the Board, on its own motion, may subpoena any witness or documents it feels are necessary to the full examination of the issues raised at the hearing. A hearing may be postponed to obtain the presence of a material witness or document.]

(1)[(4)] The Board, or its designated representative or party requesting a subpoena may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

255-75-042

Probable Cause; Effect of Preliminary Hearing; Definition of Term; Deferral of Revocation Hearing

(1) Evidence received by and/or the order of the court at the preliminary hearing may be used by the Board to establish that probable cause exists to believe that a violation of a condition of parole has occurred; and further, that should the parolee waive right to a preliminary hearing, such waiver shall also constitute a waiver of hearing by the Board to determine whether there is a probable cause to believe that a violation of one or more of the conditions of parole has occurred.

(2) "Probable Cause" shall be interpreted to mean a standard of proof lower than a preponderance (e.g., a reasonable belief that the violation did occur as opposed to proof by greater weight of the evidence). Such findings shall be used to support the Board decision to suspend and detain a parolee charged

with the commission of a new crime. The Board may then defer completion of a parole [revocation] violation hearing until trial has been completed. In no case, however, shall a deferral following a finding of probable cause extend for a period greater than ninety (90) days from the date of the preliminary hearing or waiver.

255-75-045 Evidence [at Parole Revocation Hearing: What May be Received]

The following evidence may be received at a parole [revocation] violation hearing:

- (1) Oral testimony under oath;
- (2) Affidavits or other sworn statements;
- (3) Evidence determined to be material, relevant, and reliable, regardless of its nature, including;
  - (a) Letters;
  - (b) Documents;
  - (c) Reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole officers, doctors, psychologists, attorneys);
  - (d) Uncertified copies of letters, documents, or reports shall be admissible in a parole [revocation] violation if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable.
- (4) Evidence of criminal activity even when charges have been dismissed, not brought, or the parolee has been acquitted at trial.
- (5) Hearsay evidence[,] shall be [although] admissible, however, cannot alone form the evidentiary basis for revocation if objection is raised. This provision shall not apply to certain recognized exceptions to the hearsay rule. For Board purposes, Federal rules 803, 804, and 805 shall be utilized in determining exceptions to the hearsay rule.
- (6) Upon request of any party to the hearing, the Parole Board or its designated representative, may issue a subpoena upon a proper showing of relevant and reasonable scope of the documentary/physical evidence being sought. The parolee may make his/her own arrangement for presenting evidence.

- (7) The hearings officer may exclude documents/physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.
- (8) The hearings officer may classify documents/physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
- (9) Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.
- (10) When a witness is unavailable, his/her statements may be received in the form of documentary evidence when the Hearings Officer determines at an in-camera hearing that good cause for non-disclosure exists and supporting evidence establishes the reliability of the absent witness' statement.

255-75-046

Postponement

- (1) A hearing may be postponed by the hearings officer for good cause and for a resonable period of time.
- (2) "Good cause" includes, but is not limited to:
  - (a) Preparation of defense;
  - (b) Illness or unavailability of the parolee or other persons;
  - (c) Gathering of additional evidence; or
  - (d) Avoiding interference with an ongoing police investigation or pending prosecution.

[255-75-050

Procedure for Receiving Evidence if Good Cause Exists Not to Require Confrontation or Disclosure of an Informant's Identity

- (1) When the Board receives material evidence from a witness who is likely to be subject to an actual threat of physical or psychological harm if h is/her identity is disclosed to the parolee, the Board may receive the evidence provided by the witness without requiring confrontation or disclosure of the witness' identity.

- (2) The determination whether to disclose the identity of a witness shall be made at an in-camera hearing:
  - (a) If the Hearings Officer decides good cause does not exist, the evidence shall be disclosed unless withdrawn;
  - (b) If the Hearings Officer decides good cause does not exist, he/she shall state the reasons for the decision and conduct an independent examination of the witness on the record.
- (3) Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.
- (4) When a witness is unavailable, his/her statements may be received in the form of documentary evidence, [following the procedures in this rule,] when the Hearings Officer determines at an in-camera hearing that good cause for non-disclosure exists and supporting evidence establishes the reliability of the absent witness' statement.]

255-75-055 Reopening Hearings for New Information: Criteria; Procedure

- (1) After completion of a parole [revocation] violation hearing and before a final decision, the Board may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.
- (2) The parolee shall be given notice of the decision to reopen the hearing and the new information to be considered. The hearing shall conform to the procedures of this division.

255-75-056 Hearings Record

The hearings record shall include:

- (1) Hearings Report Summary; including tape of hearing.
  - (a) The tape recording will be sent to and retained by the Parole Board for two (2) years.
- (2) Written statement of alleged violations;
- (3) Supporting materials;

(4) Notice of Rights;

(5) Order of parole.

[255-75-060 Record of Parole Revocation Hearing

- (1) A record shall be made of the parole revocation hearing, including all evidence received and considered and a manual or mechanical recording of all oral testimony and presentations.
- (2) The record shall include evidence presented at the parole revocation hearing. Upon request, the presiding officer may hold the record open for a specified period of time to receive further evidence deemed material to the proceeding.]

255-75-065 [Hearings Officer's Report: Content; Copy to Parolee;] Ten-Day Waiting Period for Parolee's Arguments and Exceptions

- [(1) After the hearing, the record of the hearing shall be given to the Board along with the report of the Hearings Officer, which shall include:
  - (a) Grounds for denial of a request for Board-appointed counsel, if applicable;
  - (b) Findings of Fact;
  - (c) A recommendation as to disposition of the case, with reasons for the recommendations; and
  - (d) a proposed order;
  - (e) The report may also include any exhibits submitted and a summary of the record.]

(1)[(2)] Within a reasonable time after the hearing, the Hearings Officer's report shall be provided to the parolee. Unless the right is waived, the parolee shall have 10 days from the date the report is mailed to make written exceptions and arguments to the report for the Board's consideration.

255-75-070 Final Action by the Board: Quorum to Decide/Final Order/Notice of Decision

- (1) The Board shall consider the record, Hearings Officer's report, and exceptions and arguments. A quorum of the Board shall enter a [final order] decision, and the individual votes of the Board members in accordance with Exhibit K. The Board shall [may choose to] adopt the findings. The Board may adopt or reject the recommendations of the Hearings Officer. When the recommendations are rejected the Board shall state the reasons for rejection. [and recommendation with reasons of the Hearings Officer as its own when entering the final order.]

- (2) A copy of the final order shall be forwarded to the parolee with notice of [his/her] the right to administrative [review under Division 80 of these rules] and judicial review [under ORS 144.335].

255-75-075 Parolees Convicted of a New Crime in Another Jurisdiction: Return/Jurisdictional Reinstatement

If a parolee has violated his/her parole as a result of a conviction of a new crime in another jurisdiction and has been sentenced to a term in prison, the Board may:

- (1) Suspend parole and order the parolee returned to Oregon for a parole revocation hearing after serving the new sentence; or
- (2) Reinstate parole to the prison sentence in the other jurisdiction in order to consolidate jurisdiction over the parolee and allow the Oregon sentence to run concurrently. Reinstatement under these circumstances is not a recommendation for parole release.

255-75-076 Designation of Parole Failure

If the Board finds that a parolee has violated the conditions of parole but chooses to reinstate or continue parole, the reinstatement or continuation may be designated a parole failure.

255-75-078 Parole Violator With New Prison Commitment; Action Required

Parole violators returned with a new prison commitment shall be given a prison term hearing in accordance with Division 30 of these rules.

255-75-080 Reinstatement Based on Time Served: Necessary Findings by Board; Effect on History/Risk Score

- (1) If the Board finds that a parolee has committed a violation of parole conditions which is sufficiently serious to require revocation of parole and the time the parolee has spent in custody pending final action on the parole revocation hearing is an adequate punishment for the violation, the Board may reinstate parole.
- (2) Reinstatement of parole under this rule shall be counted as a parole failure in computing a criminal history risk assessment score under Rule 255-35-013 [015].

[255-75-082 Authority of Revocation Panel to Set New Parole Release Date for Parole Violators]

255-75-085

[Future Disposition Hearing: Procedures; Scheduling; Board Action] Parole Violators With No New Commitment/Action Required

- (1) [After parole is revoked, the Board shall conduct a hearing to establish future disposition of the prisoner within 90 days after his/her return. This hearing shall follow the procedures of a prison term hearing as provided in Division 30,] Parole violators returned with no new prison commitment shall receive a hearing within 90 days of the date of return to Corrections Division custody.
- (2) The hearing shall follow the procedures of a prison term hearing as provided in Division 30 of these rules.
- (3)[(2)] At the future disposition hearing, the Board may:
  - (a) Set a new parole release date according to the guidelines in Rules 255-75-[085]090 and choose not to give credit for statutory good time earned until suspension of parole; or
  - (b) Deny further parole consideration, according to the guidelines in Rule 255-75-090[096], and may return all or part of the statutory good time to which the prisoner is entitled.

255-75-090

[Guidelines for Re-Release of Parole Violators: Technical Violators; New Convictions; Denial of Further Parole] Guidelines For Reparole When No New Prison Commitment Is Present

- (1) Parole violators returned with [a technical violation and] no new prison commitment [for a new conviction] shall be given an additional prison term [based on] within the following guidelines unless the Board finds aggravation/mitigation or denies parole:
  - (a) [If the] V[v]iolations [did] not involv[e]ing a finding [at the parole revocation hearing] of new criminal activity [the prisoner] shall result in an additional term [serve from] of four to eight months. [unless the Board decides that the aggravation or mitigation found at the parole revocation hearing is sufficient to justify variation from this range. Variation shall not exceed two months without concurrence of at least four voting members of the Board]
  - (b) [If the] V[v]iolations involv[ed]ing finding [at the parole revocation hearing that] of new criminal activity [has occurred, the prisoner] shall result in an additional term of [serve

from] eight to 12 months. [unless the Board decides that the aggravation of mitigation found at the parole revocation hearing is sufficient to justify variation from this range. Variation shall not exceed four months without concurrence of at least four voting members of the Board]

- [(c) Usual, but not exclusive, factors in aggravation and mitigation are shown in Exhibit G. When applicable, the factors shown in Exhibit E may be consulted.
  - (d) In setting a re-release date, the Board may consider the seriousness of the parole violator's original offense and history/risk score.
- (2) Parole violators returned with a new prison commitment shall be given a prison term according to the guidelines in Division 35:
- (a) A history/risk score reflecting the new conviction shall be calculated. When applicable, the original conviction and incarceration and the parole failure shall result in lost points;
  - (b) If the sentence on the new conviction is imposed consecutive to the original commitment offense, the provisions of subsection 255-35-020(2)(e) shall govern the credit given for time served.
- (3) The Board may deny reparole consideration and require the parole violator to serve to the end of his/her sentence upon affirmative vote of at least four voting members. In cases where setting a parole violator within the guidelines of this rule would require the parole violator to serve to the end of his/her sentence, four votes are not required.]

255-75-095

Variation From Guidelines For Aggravation/Mitigation Permitted

- (1) Variation from the terms set forth in 255-75-090(a) (b), is permitted if the Board finds aggravation or mitigation as shown in either Exhibit E or Exhibit G.
- (2) Variations from the terms set forth in 255-75-090(a) (b) shall be those established in Division 35 of these rules and shown in Exhibit D.

Denial of Reparole Consideration

- (1) The Board may deny reparole consideration and require the parole violator to serve to the statutory good time date. This action requires the affirmative vote of at least four voting members.
- (2) In cases where setting a parole violator within the guidelines set forth in 255-75-090 would require the parole violator to serve to the end of the sentence, four votes are not required.

EXHIBIT K

VOTING REQUIREMENTS FOR PAROLE REVOCATION CASES

All Board actions require three unanimous votes. Any time a vote is recorded in disagreement, additional votes are required to make three unanimous votes.

1. Suspend and Detain (abscond, major technical, new crime, persistent misbehavior)
2. Cite to Appear at parole violation hearing
3. Withdraw Suspend and Detain Order
4. Return (absconder, new crime, no basis to continue)
5. Adopt findings of hearings officer
6. Continue
7. Defer final decision regarding disposition
8. Adopt findings of hearings officer; reject recommendations
9. Revoke
10. Reinstate
11. Reprimand
12. Modify Conditions (state reasons)
13. Extend TDD six (6) months
14. No action, report noted
15. Discharge

OPB 3-1985  
5-31-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Oregon Board of Parole on May 31, 1985 to become effective \_\_\_\_\_  
(Agency) (Date)  
May 31, 1985  
(Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

Amended:  
(Existing Rules)

255-10-005, 10-010

Temporarily Amended:  
(Temporary Only)

Repealed:  
(Existing Rules)

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 1985

By: Hazel G. Heys by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB 4/985  
5-21-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985  
(Agency) (Date) (Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: (New Rules) 255-15-005, 15-010, 15-015

Amended: (Existing Rules)

ended: (Temporary Only)

Repealed: (Existing Rules)

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 19 85

By: Hazel L. Hays by EET  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2 PB 5-14.5  
5-21-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Oregon Board of Parole on May 31, 1985 to become effective \_\_\_\_\_  
(Agency) (Date)  
May 31, 1985  
(Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: \_\_\_\_\_  
(New Rules)

Amended: 255-20-005, 20-010, 20-015  
(Existing Rules)

\_\_\_\_\_   
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 1985

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2986-1403  
5-31-85

FILED  
MAY 8 1 1985  
BARBARA ROBERTS  
CLERK OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Oregon Board of Parole on May 31, 1985 to become effective \_\_\_\_\_  
(Agency) (Date)  
May 31, 1985  
(Date)

The within matter having come before the \_\_\_\_\_ Oregon Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: 255-25-005, 25-010, 25-015, 25-020, 25-025  
(New Rules)

Amended: \_\_\_\_\_  
(Existing Rules)

\_\_\_\_\_ pended: \_\_\_\_\_  
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

as Administrative Rules of the \_\_\_\_\_ Oregon Board of Parole \_\_\_\_\_  
(Agency)

DATED this 31st day of May, 19 85

By: Hazel G. Hays by ECH  
(Authorized Signatory)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB 7-1985  
5-31-85

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE ROBERTS

FILED  
MAY 31 1985  
SECRETARY OF STATE ROBERTS

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
(Agency) (Date)  
May 31, 1985 (Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: (New Rules) 255-30-021

Amended: (Existing Rules) 255-30-005, 30-010, 30-015, 30-020, 30-025, 30-030, 30-035,  
30-040, 30-045, 30-050, 30-055

Suspended: (Temporary Only)

Repealed: (Existing Rules) 255-30-002, 30-012

as Administrative Rules of the Oregon Board of Parole (Agency)

DATED this 31st day of May, 1985

By: Hazel G. Hays by EGH  
(Authorized Signer)  
Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2188-1985  
5-21-85

FILED  
MAY 21 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Oregon Board of Parole on May 31, 1985 to become effective \_\_\_\_\_  
(Agency) (Date)  
May 31, 1985  
(Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: 255-32-005, 32-010, 32-015, 32-020, 32-025, 32-035, 32-040  
(New Rules)

Amended: \_\_\_\_\_  
(Existing Rules)

Suspended: \_\_\_\_\_  
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 1985

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB 9-1-85  
5-31-85

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE



I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985

The within matter having come before the Oregon Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: 255-35-013, 35-016, 35-023, 35-024  
(New Rules)

Amended: 255-35-005, 35-010, 35-015, 35-020, 35-022, 35-025,  
(Existing Rules) 35-030, 35-035

Temporarily: \_\_\_\_\_  
(Temporary Only)

Repealed: 255-35-012, 35-040  
(Existing Rules)

as Administrative Rules of the Oregon Board of Parole

DATED this 31st day of May, 1985

By: Hazel G. Hays by ECH  
(Authorized Signer)  
Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Assessment of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB 10-1-80  
5-21-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985  
(Agency) (Date) (Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules) \_\_\_\_\_

Amended:  
(Existing Rules) 255-38-005

Proposed:  
(Temporary Only) \_\_\_\_\_

Repealed:  
(Existing Rules) \_\_\_\_\_

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 19 85

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB 11-1985  
5-31-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985

The within matter having come before the Oregon Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: (New Rules)

Amended: (Existing Rules) 255-40-005, 40-010, 40-020, 40-025

Suspended: (Temporary Only)

Repealed: (Existing Rules) 255-40-015, 40-030

as Administrative Rules of the Oregon Board of Parole

DATED this 31st day of May 19 85

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB 18-1785  
5-31-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
(Agency) (Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

Amended:  
(Existing Rules)

255-50-005, 50-010, 50-015, 50-016

Temporarily Suspend:  
(Temporary Only)

Repealed:  
(Existing Rules)

255-50-017, 50-018, 50-020

as Administrative Rules of the Oregon Board of Parole (Agency)

DATED this 31st day of May 19 85

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey

Phone: 378-233

2PB 13-1985  
5-31-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
(Agency) (Date)  
May 31, 1985  
(Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

\_\_\_\_\_

Amended:  
(Existing Rules)

255-60-005, 60-020

ended:  
(Temporary Only)

\_\_\_\_\_

Repealed:  
(Existing Rules)

255-60-010, 60-015, 60-025

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May 19 85

By: Hazel J. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

SED FORM  
No. 420a (Rev.)  
Sept. 1, 1983

2PB 14-17-85  
5-31-85

FILED  
MAY 8 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985  
(Agency) (Date)

The within matter having come before the Oregon Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

Amended:  
(Existing Rules)

255-65-005, 65-010, 65-015, 65-020

Suspended:  
(Temporary Only)

Repealed:  
(Existing Rules)

is Administrative Rules of the Oregon Board of Parole (Agency)

DATED this 31st day of May, 1985

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

its Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

Further Information Contact: April M. Lackey

2PB15-1985  
5-31-85

FILED  
MAY 31 1985  
BARBARA ROBERTS  
OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985  
(Agency) (Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: (New Rules) 255-70-001

Amended: (Existing Rules) 255-70-010

Suspended: (Temporary Only)

Repealed: (Existing Rules) 255-70-005

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 1985

By: Hazel D. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:  EK

Fiscal Impact Attached:  EK

For Further Information Contact: April M. Lackey Phone: 378-2334

*2PB 17-1785*  
*5-31-85*

**CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

**FILED**  
MAY 31 1985  
BARBARA ROBERTS  
DEPT. OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Oregon Board of Parole \_\_\_\_\_ on \_\_\_\_\_ May 31, 1985 \_\_\_\_\_ to become effective \_\_\_\_\_  
(Agency) (Date)

The within matter having come before the \_\_\_\_\_ Oregon Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:  
Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_ April 1, 1985 \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules) \_\_\_\_\_

Amended:  
(Existing Rules) \_\_\_\_\_ 255-80-005 \_\_\_\_\_

ended:  
(Temporary Only) \_\_\_\_\_

Repealed:  
(Existing Rules) \_\_\_\_\_

as Administrative Rules of the \_\_\_\_\_ Oregon Board of Parole \_\_\_\_\_  
(Agency)

DATED this \_\_\_\_\_ 31st \_\_\_\_\_ day of \_\_\_\_\_ May \_\_\_\_\_, 19 \_\_\_\_\_ 85 \_\_\_\_\_

By: Hazel G. Hays by EEH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

2PB18-1-85  
5-21-85

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY

FILED  
MAY 21 1985  
DANIELA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
May 31, 1985

The within matter having come before the Oregon Board of Parole after  
all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:  
Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

Amended:  
(Existing Rules)

255-90-002, 90-003, 90-005, 90-010, 90-015

Suspended:  
(Temporary Only)

Repealed:  
(Existing Rules)

255-90-001

Administrative Rules of the Oregon Board of Parole

DATED this 31st day of May, 19 85

By: Hazel G. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

Further Information Contact: April M. Lackey

Phone: 378-2334

2PB 19-1985  
5-31-85

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

FILED  
MAY 31 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Oregon Board of Parole on May 31, 1985 to become effective  
(Agency) (Date)  
May 31, 1985  
(Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: April 1, 1985

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: (New Rules) \_\_\_\_\_

Amended: (Existing Rules) 255-95-005 \_\_\_\_\_

Suspended: (Temporary Only) \_\_\_\_\_

Repealed: (Existing Rules) \_\_\_\_\_

as Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 1985

By: Hazel D. Hays by E.H.  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the )  
Adoption/Amendment/ )  
Repeal of the ) STATEMENT OF NEED  
Administrative Rules )  
Division 1 through 95 )

The Parole Board is permanently adopting the above-named  
Administrative Rules, Division 1 through 95.

- (a) Statutory Authority : ORS Chapter 144
- (b) Need for Rules : The rules are being permanently  
adopted to reflect changes in  
administrative procedures.
- (c) Documents Relied Upon : None

May 31, 1985  
Date

Hazel G. Hays by EGH  
Hazel G. Hays, Chairperson  
Board of Parole

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the )  
Adoption/Amendment/ )  
Repeal of the ) STATEMENT OF JUSTIFICATION  
Administrative Rules )  
Division 1 through 95 )

The Parole Board is permanently adopting the above-named  
Administrative Rules, Division 1 through 95.

- (a) Statutory Authority : ORS Chapter 144  
(b) Need for Rules : The rules are being permanently  
adopted to reflect changes in  
administrative procedures.  
(c) Documents Relied Upon : None

May 31, 1985  
Date

*Hazel G. Hays by EGH*  
Hazel G. Hays, Chairperson  
Board of Parole

FISCAL ANALYSIS OF RULE  
PER ORS 183.335

Administrative Rules, Division 1 through 95

<u>Effect on Revenue (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None
<u>Effect on Expenditures (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

Organizational Impact:

None

Positions:

All staff required to administer the Board of Parole's Administrative Rules have been provided by the Legislature and are contained in the present Parole Board biennium's budget.

Economic Impact:

None

Reference for Data and Methods Used RE Above

Parole Board Budget

Prepared by: Erma E. Hepburn

Agency: Board of Parole

Title: Executive Director

Date: May 31, 1985

**FILED**  
MAR 20 1985  
BARBARA ROBERTS  
SECRETARY OF STATE

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of )  
Administrative Rules, ) NOTICE OF PROPOSED ADOPTION/  
Division 1 through 95 ) AMENDMENT/REPEAL

1. Hearings have been scheduled to allow interested persons to present their data, views, or arguments whether orally or in writing concerning the considered changes to the Administrative Rules, Division 1 through 95 of the Oregon State Board of Parole. A written copy of all testimony must be submitted. The hearings scheduled are:

On April 23, 1985, at 3:00 p.m., in the visiting room of the Oregon State Correctional Institution, 3405 Deer Park Drive, Salem, Oregon, a hearing will be held for the inmates of that institution.

On April 25, 1985, at 2:30 p.m., in the conference room on the IMF floor of the Oregon State Penitentiary, 2605 State Street, Salem, Oregon, a hearing will be held for inmates of that institution.

On April 29, 1985, at 3:00 p.m., a public hearing will be held in Room 229 of the Dome Building, 2575 Center Street, N. E., Salem, Oregon.

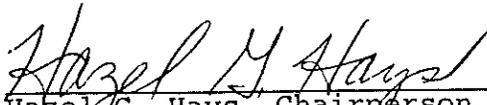
On April 30, 1985, at 3:00 p.m., in the visiting room of the Oregon State Women's Correctional Center, 2605 State Street, Salem, Oregon, a hearing will be held for the inmates of that institution.

2. Citation of statutory authority, statement of need, principal documents relied upon and statement of fiscal impact are attached to and made a part of this notice.

3. Vice Chairperson Paul Aronson has been designated by the Chairperson of the Board of Parole to preside over and conduct the hearings.

4. Copies of the proposed Administrative Rules are available at the office of the Board of Parole, 2575 Center Street, N. E., Salem, Oregon, between the hours of 8:00 - 5:00 or may be requested in writing.

Dated: March 20, 1985

  
\_\_\_\_\_  
Hazel G. Hays, Chairperson  
Oregon State Board of Parole

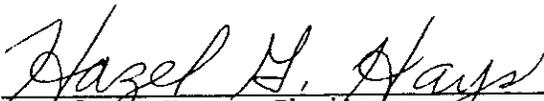


BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of ) Statutory Authority, Statement  
Administrative Rules, ) of Need, Principal Documents  
Division 1 through 95 ) Relied Upon and Statement of  
Fiscal Impact

1. Citation of statutory authority: Chapter 144 of ORS which authorizes the Board of Parole to make rules establishing standards for prison terms and parole.
2. Need for rule: The administrative rules are under consideration of change to meet requirements of statute and changes in processes.
3. Documents, reports and studies relied upon in proposing changes: Chapter 144 of ORS.
4. Fiscal and economic impact: None.

Dated: March 20, 1985

  
\_\_\_\_\_  
Hazel G. Hays, Chairperson  
Oregon State Board of Parole

CERTIFICATE AND ORDER  
for

FILED  
MAY 31 1985  
BARBARA ROBERTS  
STATE

FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

Oregon Board of Parole \_\_\_\_\_ on May 31, 1985

become effective May 31, 1985

The within matter having come before the Oregon Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following rule(s) be adopted: Perm.  or Temp.   
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted: 255-01-016, 255-15-005, 255-15-010, 255-15-015, 255-25-005,  
(New Rules) 255-25-010, 255-25-015, 255-25-020, 255-25-025,

Amended: 255-01-005, 255-01-010, 255-10-005, 255-10-010, 255-10-015,  
(Existing Rules) 255-20-005, 255-20-010, 255-20-015, 255-30-010, 255-30-015,

Suspended: \_\_\_\_\_  
(Temporary Only) \_\_\_\_\_

Repealed: 255-01-015, 255-01-025, 255-01-030, 255-01-035, 255-01-040,  
(Existing Rules) 255-01-045, 255-01-050, 255-01-055, 255-30-002, 255-30-012

is Administrative Rules of the Oregon State Board of Parole

DATED this 31st day of May 19 85

By: Hazel L. Hays by E.F.H.  
Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April M. Lackey Phone 378-2334

Oct. 1979

CERTIFICATE AND ORDER

for

FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the

Oregon Board of Parole on May 31, 1985

to become effective May 31, 1985

The within matter having come before the Oregon Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following rule(s) be adopted: Perm. [X] or Temp. [ ] (List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted: (New Rules) 255-30-021, 255-32-005, 255-32-010, 255-32-015, 255-32-020, 255-32-025, 255-32-035, 255-32-040, 255-35-013, 255-35-016

Amended: (Existing Rules) 255-30-020, 255-30-025, 255-30-030, 255-30-035, 255-30-040, 255-30-045, 255-30-050, 255-30-055, 255-35-005, 255-35-010,

Suspended: (Temporary Only)

Repealed: (Existing Rules) 255-35-012, 255-35-040, 255-40-015, 255-40-030, 255-50-018, 255-50-020, 255-60-010, 255-60-015, 255-60-025, 255-70-005,

Administrative Rules of the Oregon Board of Parole

DATED this 31st day of May 19 85

By: [Signature] Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached: [X] Fiscal Impact Attached: [X]

For Further Information Contact: April M. Lackey Phone: 378-2334

### CERTIFICATE AND ORDER

for

## FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

Oregon Board of Parole

on May 31, 1985

(Agency)

(Date)

become effective May 31, 1985

(Date)

The within matter having come before the Oregon Board of Parole after

(Agency)

the required procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully reviewed in the premises:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following rule(s) be adopted: Perm.  or Temp.

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted:  
(New Rules)

255-35-023, 255-35-024, 255-70-001, 255-75-002, 255-75-003,  
255-75-007, 255-75-026, 255-75-031, 255-75-036, 255-75-046,

Amended:  
(Existing Rules)

255-35-015, 255-35-020, 255-35-022, 255-35-025, 255-35-030,  
255-35-035, 255-38-005, 255-40-005, 255-40-010, 255-40-020,

Suspended:  
(Temporary Only)

\_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules)

255-75-010, 255-75-020, 255-75-050, 255-75-060, 255-75-082,  
255-90-001

Administrative Rules of the Oregon Board of Parole

(Agency)

DATED this 31st day of May, 1985

By:

Hazel L. Hays by ECH

(Authorized Signer)

Title:

Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact:

April M. Lackey

Phone: 378-2334

CERTIFICATE AND ORDER

for

FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the

Oregon Board of Parole

on May 31, 1985

(Agency)

(Date)

become effective May 31, 1985

(Date)

The within matter having come before the Oregon Board of Parole after

(Agency)

procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following rule(s) be adopted: Perm.  or Temp.

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted:

(New Rules)

255-75-056, 255-75-076, 255-76-078, 255-75-095, 255-75-096

Amended:

(Existing Rules)

255-40-025, 255-50-005, 255-50-010, 255-50-015, 255-50-016,

255-60-005, 255-60-020, 255-65-005, 255-65-010, 255-65-015,

Suspended:

(Temporary Only)

Repealed:

(Existing Rules)

Administrative Rules of the Oregon Board of Parole

(Agency)

DATED this 31st day of May 19 85

By:

Hazel D. Hays by [Signature]

(Authorized Signer)

Title:

Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

Further Information Contact: April M. Lackey

Phone: 378-2334

# CERTIFICATE AND ORDER

for

## FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

Oregon Board of Parole

on May 31, 1985

on

(Date)

to become effective May 31, 1985  
(Date)

The within matter having come before the Oregon Board of Parole after  
(Agency)

All procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following rule(s) be adopted: Perm.  or Temp.   
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted:  
(New Rules)

\_\_\_\_\_

Amended:  
(Existing Rules)

255-65-020, 255-70-010, 255-75-001, 255-75-005, 255-75-006,  
255-75-015, 255-75-025, 255-75-030, 255-75-035, 255-75-040,

Suspended:  
(Temporary Only)

\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_

Administrative Rules of the Oregon Board of Parole  
(Agency)

DATED this 31st day of May, 1985

By: Hazel L. Hayes by EEF  
(Authorized Signer)

Title: Chairperson, Board of Parole

Statutory Authority: ORS Chapter 144  
Subject Matter: Administrative Rules

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April M. Lackey

Phone: 378-2334

**CERTIFICATE AND ORDER**  
**for**  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on May 31, 1985 (Date) to become effective May 31, 1985 (Date).

The within matter having come before the Oregon Board of Parole (Agency) after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No  Yes  Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. EK or Temp.

Adopted:  
(New Rules)

\_\_\_\_\_  
\_\_\_\_\_

Amended:  
(Existing Rules)

255-75-042, 255-75-045, 255-75-055, 255-75-065,  
255-75-070, 255-75-080, 255-75-085, 255-75-090,

Suspended:  
(Temporary Only)

\_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_  
\_\_\_\_\_

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 31 day of May, 19 85

By: Hazel D. Hays by ECH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144  
Administrative Rules

Subject Matter: \_\_\_\_\_

Statement of Need Attached:  Fiscal Impact Attached:   
For Further Information Contact: April M. Lackey Phone: 378-2334

**CERTIFICATE AND ORDER**  
**for**  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on May 31, 1985 (Date) to become effective May 31, 1985 (Date).

The within matter having come before the Oregon Board of Parole (Agency) after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No  Yes  Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm.  or Temp.

Adopted:  
(New Rules)

\_\_\_\_\_  
\_\_\_\_\_

Amended:  
(Existing Rules)

255-80-005, 255-90-002, 255-90-003, 255-90-005,  
255-90-010, 255-90-015, 255-95-005

Suspended:  
(Temporary Only)

\_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_  
\_\_\_\_\_

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 31 day of May, 19 85.

By: Hazel G. Harris by EdH  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Administrative Rules

Statement of Need Attached:  Fiscal Impact Attached:   
For Further Information Contact: April M. Lackey Phone: 378-2334

BEFORE THE

: OREGON STATE BOARD OF PAROLE

In the Matter of the )  
Adoption/Amendment/ )  
Repeal of the ) STATEMENT OF JUSTIFICATION  
Administrative Rules )  
Division 1 through 95 )

The Parole Board is permanently adopting the above-named  
Administrative Rules, Division 1 through 95.

- (a) Statutory Authority : ORS Chapter 144  
(b) Need for Rules : The rules are being permanently  
adopted to reflect changes in  
administrative procedures.  
(c) Documents Relied Upon : None

May 31, 1985  
Date

Hazel G. Hays by E.H.  
Hazel G. Hays, Chairperson  
Board of Parole

BEFORE THE

: OREGON STATE BOARD OF PAROLE

In the Matter of the )  
Adoption/Amendment/ )  
Repeal of the ) STATEMENT OF NEED  
Administrative Rules )  
Division 1 through 95 )

The Parole Board is permanently adopting the above-named Administrative Rules, Division 1 through 95.

- (a) Statutory Authority : ORS Chapter 144
- (b) Need for Rules : The rules are being permanently adopted to reflect changes in administrative procedures.
- (c) Documents Relied Upon : None

May 31, 1985  
Date

Hazel G. Hays by EGH  
Hazel G. Hays, Chairperson  
Board of Parole

FISCAL ANALYSIS OF RULE  
PER ORS 183.335

Administrative Rules, Division 1 through 95

<u>Effect on Revenue (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None
<u>Effect on Expenditures (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

Organizational Impact:

None

Positions:

All staff required to administer the Board of Parole's Administrative Rules have been provided by the Legislature and are contained in the present Parole Board biennium's budget.

Economic Impact:

None

Reference for Data and Methods Used RE Above

Parole Board Budget

Prepared by: Erma E. Hepburn

Agency: Board of Parole

Title: Executive Director

Date: May 31, 1985

OREGON ADMINISTRATIVE RULES  
BOARD OF PAROLE  
CHAPTER 255  
Table of Contents

DIVISION 1

RULEMAKING PROCEDURE

- 255-01-005 Notice of Rulemaking:  
Time and Manner
- 255-01-010 Rulemaking Procedure
- 255-01-016 Obtaining Copies of  
Board Rules
- 255-01-020 Submitting Draft of Rule  
to Legislative Counsel

DIVISION 10

ORGANIZATION

- 255-10-005 Membership
- 255-10-010 Chairperson: Vice-  
Chairperson; Selection;  
Term
- 255-10-015 Chairperson; Vice-  
Chairperson; Powers and  
Duties
- 255-10-020 Jointly Adopted Rules:  
Adoption, Designation,  
and Changes of Rules  
With Other Agencies

DIVISION 15

REQUEST FOR PAROLE BOARD

RECORDS OR FILES

- 255-15-005 Procedures

CHAPTER 255 -- BOARD OF PAROLE

255-15-010 Criteria for Disclosure  
or Denial of Disclosure  
of File or Record

255-15-015 Fees for Disclosure of  
Board Records or Files

DIVISION 20

BUSINESS MEETINGS

255-20-005 Scheduling

255-20-010 Quorum

255-20-015 Matters for  
Consideration; Majority  
Vote

DIVISION 25

ADJUSTED COMMITMENT DATE

255-25-005 Date Service of Sentence  
Commences

255-25-010 Credit For Time Served

255-25-015 Calculation of Adjusted  
Commitment Date

255-25-020 Method of  
Certification/Disagreement  
With Time Served  
Calculation

255-25-025 Adjustment of Adjusted  
Commitment Date

DIVISION 30

PRISON TERM HEARING PROCEDURE

CHAPTER 255 -- BOARD OF PAROLE

- 255-30-005 Definitions
- 255-30-010 Scheduling Prison Term Hearings
- 255-30-015 Panels: When a Two-Member Panel Conducts a Prison Term Hearing; When Full Board is Required; Procedures for Full Board Decision
- 255-30-020 Procedures for Full Board Decisions
- 255-30-021 Procedures for Hearings Involving Out of State Jurisdictions
- 255-30-025 Who May Appear at a Parole Board Hearing
- 255-30-030 Panel Decisions: Use of Guidelines; Unanimity Requirement
- 255-30-035 Information the Board Must Consider at a Prison Term Hearing: Parole Analysis Report; Other Material
- 255-30-040 Prisoner's Access to Written Materials Considered at Hearings and Interviews
- 255-30-045 Exemptions from Disclosure
- 255-30-050 Record of Hearing: Contents; Time to Be Maintained
- 255-30-055 Notification of Decision: Parties Notified; Content

CHAPTER 255 -- BOARD OF PAROLE  
DIVISION 32

AGGRAVATED MURDER

- 255-32-005 Prison Term Hearing to  
be Held
- 255-32-010 Minimum Period of  
Confinement Pursuant to  
ORS 163.105
- 255-32-015 Petition for Hearing
- 255-32-020 Purpose of Hearing
- 255-32-025 Manner of Hearing
- 255-32-035 Effect of Denying Relief  
Requested
- 255-32-040 Record/Notice

DIVISION 35

APPLICATION OF THE GUIDELINES  
TO ESTABLISH A PRISON TERM

- 255-35-005 Definitions
- 255-35-010 Rating Crime Severity:  
Generally, Multiple  
Concurrent Convictions
- 255-35-013 Factors Which Determine  
An Initial Parole  
Release Date
- 255-35-015 Criminal History/Risk  
Assessment
- 255-35-016 Establishing Conditions  
of Parole
- 255-35-020 Effect of Time on Escape  
on Prison Terms

v(July, 1985)

CHAPTER 255 -- BOARD OF PAROLE

- 255-35-022 Consecutive Sentences:  
Effect of Consecutive  
Sentences on  
Establishing a Prison  
Term
- 255-35-023 Effect of Judicial  
Minimum Sentences on  
Prison Terms Under ORS  
144.110
- 255-35-024 Effect of Judicial  
Mandatory Minimum  
Sentences on Prison  
Terms Under ORS 161.610
- 255-35-025 Setting a Parole Release  
Date: When Guideline  
Range Exceeds Good Time  
Date
- 255-35-030 Parole Denial: When  
Parole May be Denied
- 255-35-035 Variations From the  
Ranges for Aggravation  
or Mitigation: Statments  
for Record, Prior  
Disclosure to Prisoners

DIVISION 38

DANGEROUS OFFENDERS

- 255-38-005 Permissible Action:  
Setting Parole  
Consideration Hearing  
Instead of a Release  
Date, Setting Release  
Dates and Statutory  
Reviews

DIVISION 40

REVIEWS, REOPENING CASES, AND

CHAPTER 255 -- BOARD OF PAROLE  
REDUCTIONS IN PRISON TERMS

- 255-40-005 Scheduling of Personal  
Reviews
- 255-40-010 Procedure for Personal  
Reviews
- 255-40-020 Reopening Cases: When;  
What is Necessary
- 255-40-025 Reductions in Prison  
Terms: Effect of Minimum  
Terms
- 255-40-035 Notice; Disclosure;  
Record

DIVISION 50

POSTPONING A PAROLE RELEASE DATE  
FOR SERIOUS MISCONDUCT

- 255-50-005 Postponing a Parole  
Release Date for Serious  
Misconduct
- 255-50-010 Postponement Procedures:  
Hearing by Board; Board  
Action
- 255-50-015 Rescission of Parole:  
Voluntary Absence
- 255-50-016 Postponement Procedure;  
Voluntary Absence

DIVISION 60

PAROLE RELEASE

CHAPTER 255 -- BOARD OF PAROLE

255-60-005 Exit Interview Purpose:  
To Review Parole Plan,  
Prison and Psychiatric  
Records/Notification of  
Prisoner

255-60-020 Out-Of-State Parole  
Release Hearing  
Procedures

DIVISION 65

RESTITUTION

255-65-005 When Restitution is  
Ordered Upon Parole  
Release: Establishing a  
Payment Schedule;  
Limitations

255-65-010 Sentence Including  
Restitution as  
Mitigation

255-65-015 Supervision of Payments:  
Conditions of Parole;  
Default by Parolee;  
Effect on Discharge

255-65-020 Establishment of  
Supervision Fees;  
Criteria; Disbursement  
of Fees

DIVISION 70

CONDITIONS OF PAROLE

255-70-001 Conditions of Parole

255-70-010 Guideline on Standard  
Condition Relating to  
"Best Interest" Return

CHAPTER 255 -- BOARD OF PAROLE  
DIVISION 75

PROCEDURES FOR REVOCATION  
OF PAROLE

- 255-75-001 Definitions
- 255-75-002 Suspension of Parole;  
Citation
- 255-75-003 Criteria For Allowing  
Parolee to Remain in  
Community Pending  
Hearing
- 255-75-005 Hearing Requirement:  
Procedure
- 255-75-006 Method of Hearing
- 255-75-007 Hearings  
Officer/Designated  
Representative
- 255-75-015 Procedures When Parolee  
is in Another  
Jurisdiction: Return of  
Parolee
- 255-75-025 Notice of Hearing
- 255-75-026 Waiver of Hearing
- 255-75-030 Board Rejection of  
Waiver
- 255-75-031 Hearings Process
- 255-75-035  
Representation/Determination  
of Ability to Pay  
Attorney Fees
- 255-75-036 Board Subpoenas;  
Witnesses or Documents

CHAPTER 255 -- BOARD OF PAROLE

255-75-040 Compelling Appearance of  
Witnesses: If subpoena  
Requested; Board Motion;  
Failure to Obey

255-75-042 Probable Cause; Effect  
of Preliminary Hearing,  
Definition of Term;  
Deferral of Revocation  
Hearing

255-75-045 Evidence

255-75-046 Postponement

255-75-055 Reopening Hearings for  
New Information:  
Criteria; Procedure

255-75-056 Hearings Record

255-75-065 Ten-Day Waiting Period  
for Parolee's Arguments  
and Exceptions

255-75-070 Final Action by the  
Board: Quorum to Decide/  
Final Order/Notice of  
Decision

255-75-075 Parolees Convicted of a  
New Crime in Another  
Jurisdiction: Return;  
Jurisdictional Re-  
instatement

255-75-076 Designation of Parole  
Failure

255-75-078 Parole Violator With New  
Prison Commitment;  
Action Required

255-75-080 Reinstatement Based on  
Time Served: Necessary  
Findings by Board;  
Effect on History/Risk  
Score

CHAPTER 255 -- BOARD OF PAROLE

255-75-085 Parole Violators With No  
New Commitment/Action  
Required

255-75-090 Guidelines for Reparole  
When No New Prison  
Commitment is Present

255-75-095 Variation From  
Guidelines For  
Aggravation/Mitigation  
Permitted

255-75-096 Denial of Reparole  
Consideration

DIVISION 80

ADMINISTRATIVE APPEAL

255-80-005 Method of Appeal

255-80-010 Criteria for Appeal

DIVISION 90

DISCHARGE

255-90-002 Establishing Conditional  
Discharge Date; Effect  
of Restitution  
Obligation

255-90-003 Period of Time to Serve  
on Supervised Parole

255-90-005 Procedure: Approving or  
Denying Discharge

255-90-010 Extension of Parole  
Discharge Date;  
Procedure: Approving or  
Denying Discharge;  
Further Proceedings

CHAPTER 255 -- BOARD OF PAROLE

255-90-015 Discharge

DIVISION 95

PRESENTENCE INVESTIGATION

255-95-005 Uniform Presentence  
Report

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 1  
-- BOARD OF PAROLE

DIVISION 1

RULEMAKING PROCEDURE

Notice of Rulemaking: Time and Manner

255-01-005 Prior to the adoption, amendment, or repeal of any rule, the chairperson of the Board shall give notice of the proposed action at least fifteen (15) days prior to the effective date:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360.

(2) By mailing a copy of the notice to persons on the Board mailing list established pursuant to ORS 183.335(7).

(3) By mailing or furnishing a copy of the notice to:

(a) Oregon State Bar Bulletin;

(b) United Press International and Associated Press;

(c) Release Services, Field Services, and Regional Offices, State of Oregon Corrections Division;

(d) Oregon District Attorneys Association;

(e) Oregon Criminal Defense Attorneys Association;

(f) Multnomah County Public Defender;

(g) Washington County Public Defender;

(h) Lane County Public Defender;

(i) Douglas County Public Defender;

(j) Coos County Public Defender;

(k) State Public Defender;

(l) Oregon Prisoners Legal Services;

(m) University of Oregon Law School;

(n) Northwestern College of Law, Lewis and Clark College;

(o) College of Law, Willamette University;

- (p) American Civil Liberties Union;
- (q) The Oregonian, Portland, Oregon;
- (r) Pendleton Eastern Oregonian, Pendleton, Oregon;
- (s) The Oregon Statesman Journal, Salem, Oregon;
- (t) Medford Mail Tribune, Medford, Oregon;
- (u) The Register Guard, Eugene, Oregon;
- (v) Superintendents of state correctional institutions;
- (w) Administrator, Corrections Division;
- (x) Others upon formal written request of the Board.

(4) By posting on bulletin boards, placing in the general reading section of the libraries of the institutions of the Corrections Division, and publishing in bulletins of the Corrections Division.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1985, f. & ef. 5-31-85

Rulemaking Procedure

255-01-010 All new and revised rules will be adopted in accordance with the provisions of ORS 183 and the Model Rules of Procedure adopted by the Oregon Attorney General. Only those sections of the Model Rules which relate to rulemaking will be utilized by the Board.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1985, f. & ef. 5-31-85

Contents of Notice of Rulemaking When Public Hearing Will be Held Only if Requested

255-01-015 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,

f. & ef. 5-31-85]

Obtaining Copies of Board Rules

255-01-016 (1) A copy of the Board rules shall be provided free of charge to the inmate libraries at each of the Correction Division institutions and to any state agency or legislative entity who request a copy.

(2) Others who desire copies of Board rules shall make their request in writing. A charge of ten (.10) cents per page will be levied to cover the costs associated with printing and distribution. Payment must be received in advance by money order made payable to the Oregon State Parole Board.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 2-1985, f. & ef. 5-31-85

Submitting Draft of Rule to Legislative Counsel

255-01-020 Prior to the proposed action, including temporary rules, the Board shall submit a draft of the proposed action to Legislative Counsel.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 1-1979, f. & ef. 2-1-79

Postponing Intended Action

255-01-025 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,  
f. & ef. 5-31-85]

Conduct of Hearing

255-01-030 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,  
f. & ef. 5-31-85]

Presiding Officer's Report

255-01-035 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,  
f. & ef. 5-31-85]

Action of the Board

255-01-040 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,  
f. & ef. 5-31-85]

Notice of Board Action: Certification to Secretary of State;

Submitting Copy to Legislative Counsel

255-01-045 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,

f. & ef. 5-31-85]

Petition to Adopt, Amend, or Repeal Rule: Contents of Petition;

Filing of Petition

255-01-050 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,

f. & ef. 5-31-85]

Temporary Rules

255-01-055 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 2-1985,

f. & ef. 5-31-85]

(f) Designate members to conduct hearings and reviews.

(2) The vice-chairperson shall have such powers and duties as are determined by the Governor as necessary for the performance of such office.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 17-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Jointly Adopted Rules: Adoption, Designation, and Changes of Rules With Other Agencies

255-10-020 (1) The Board shall adopt rules jointly with other administrative agencies as required by statute.

(2) The Board may adopt rules jointly with another administrative agency when necessary to implement its own rules.

(3) Rules adopted jointly shall be specifically identified as joint rules with the appropriate agency designated.

(4) Jointly adopted rules shall not be changed without prior notice, consultation, and agreement with the jointly adopting agency.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 15 --  
BOARD OF PAROLE

DIVISION 15

REQUEST FOR PAROLE BOARD RECORDS  
OR FILES

Procedures

255-15-005 (1) Any interested party may apply for selected file or record information.

(2) The request must be in writing, addressed to the Chairperson of the Parole Board and must specify the information requested.

(3) The Chairperson will designate one (1) or more employes to review files or records for disclosure.

(4) The designated staff member(s), upon direction from the Chairperson, will review the files(s) or record(s) as necessary and will determine what may be and what may not be disclosed, in accordance with OAR 255-15-010.

(5) The designated staff member will:

(a) Advise the interested party if the Parole Board agrees to disclose a copy(ies) of the information, the number of pages of duplication required, and the cost thereof; or

(b) Advise the interested party that the requested information is not subject to disclosure.

Stat.Auth.: ORS Ch. 144  
Hist: 1PB 4-1985, f. & ef. 5-31-85

Criteria for Disclosure or Denial of Disclosure of File or Record

255-15-010 Files or records which pertain to persons who are presently, or who were formerly under the jurisdiction of the Parole Board may be disclosed to the interested party(ies) if the disclosure will not:

(1) Interfere with the rehabilitation of the person concerned;

(2) Endanger other persons;

(3) Substantially interfere with the carrying out of the functions of the Parole Board; or

(4) Compromise the privacy of another person.

Stat.Auth.: ORS Ch. 144

Hist: 1PB 4-1985, f. & ef. 5-31-85

Fees for Disclosure of Board Records or Files

255-15-015 (1) If the request is for specific releaseable information, the cost of the duplication will be fifty (50¢) cents a page.

(2) If the request requires a file or record review and a determination of availability by the reviewer, the cost will be one dollar and twenty-five cents (\$1.25) a page.

(3) All computed costs include staff time for review, reproduction, materials, and first class postage.

(4) Except as noted below, no reproduction of file or record material is authorized until payment for the services has been received in the form of a Postal Money Order or cashier's check made payable to the Oregon State Parole Board.

(5) Payments will be deposited in Miscellaneous Receipts account in accordance with Business Office instructions.

(6) Fees for reproduction of file information will not be charged to government agencies or parties involved in the treatment of clients or former clients.

Stat.Auth.: ORS Ch. 144

Hist: 1PB 4-1985, f. & ef. 5-31-85

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 20 --  
BOARD OF PAROLE

DIVISION 20

BUSINESS MEETINGS

Scheduling

255-20-005 Business meetings shall be held as scheduled by the chairperson or upon the request of at least two (2) members.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85

Quorum

255-20-010 A business meeting requires the presence of at least three (3) voting members of the Board.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85

Matters for Consideration; Majority Vote

255-20-015 The business meeting shall consider matters relating to Board policy and administration raised by the agenda presented by the chairperson or by Board members. Three (3) affirmative votes are required to make a Board decision at a business meeting.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 25 --  
BOARD OF PAROLE

DIVISION 25

ADJUSTED COMMITMENT DATE

Date Service of Sentence Commences

255-25-005 Pursuant to ORS 137.370, service of a sentence of imprisonment commences to run on the date on which the person is delivered to custody of the Corrections Division regardless of whether the sentence is to be served in a state or federal institution.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 6-1985, f. & ef. 5-31-85

Credit For Time Served

255-25-010 Pursuant to ORS 137.320, each person received by the Corrections Division shall be allowed credit toward the service of his/her sentence for any days spent in custody prior to delivery to the Corrections Division in connection with the offense or acts for which sentence was imposed. The statement so provided shall constitute "certifications" of time served credits.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 6-1985, f. & ef. 5-31-85

Calculation of Adjusted Commitment Date

255-25-015 (1) In computing the prison release date, the Board shall establish the adjusted commitment date, the date which will be considered the starting date for the prison term, on the most recent sentence being considered.

(2) The adjusted commitment date shall be calculated by subtracting the number of days the person was in custody from the date the person was received by the Corrections Division.

(3) Only those periods of time certified by the sheriff of the county where the person was confined shall be considered by the Board in establishing the adjusted commitment date.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 6-1985, f. & ef. 5-31-85

Method of Certification/Disagreement with Time Served Calculation

255-25-020 (1) The Board shall consider only those time served credits which have been reported to the Corrections Division pursuant to ORS 137.320.

(2) If an interested party disagrees with the time served calculation certified pursuant to ORS 137.320, it becomes the responsibility of the person to resolve the matter with the agency who prepared the certification.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 6-1985, f. & ef. 5-31-85

Adjustment of Adjusted Commitment Date

255-25-025 If additional time served credits are certified and received after the adjusted commitment date has been calculated, the Board may take action administratively to correct the commitment date. The person so affected shall receive notice in writing of the Board's action.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 6-1985, f. & ef. 5-31-85

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 30 --  
BOARD OF PAROLE

DIVISION 30

PRISON TERM HEARING PROCEDURE

Policy

255-30-002 [2PB 3-1981(Temp), f. & ef. 7-20-81;

Repealed by 2PB 7-1985,  
f. & ef. 5-31-85]

Definitions

255-30-005 (1) "Prison term hearing": The hearing given a prisoner within six (6) months of admission to a correctional institution at which the Board establishes a prison term to be served according to the guideline ranges.

(2) "Prison term": The actual time to be served before the initial parole release date.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Scheduling Prison Term Hearings

255-30-010 (1) The Board shall schedule a prison term hearing to establish a prison term for each new prisoner within six (6) months of admission to a Corrections Division facility.

(2) The Board may continue the hearing to obtain additional information. The continuance may not extend past six (6) months from admission plus thirty (30) days.

(3) A prison term hearing shall be scheduled within six (6) months of commitment for any additional sentence received while in custody of a Corrections Division facility.

(4) The prisoner shall be notified in writing of the hearing and its purpose within fourteen (14) days of the hearing date.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Scheduling and Hearing Procedure for Aggravated Murder

Final

255-30-012 [ 2PB 10-1981(Temp), f. & ef. 11-4-81;

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 7-1985,

f. & ef. 5-31-85]

Panels: When a Two-Member Panel Conducts a Prison Term Hearing; When Full Board is Required; Procedures for Full Board Decision

255-30-015 (1) Except as provided in this rule, all prison term hearings shall be heard by a panel of two voting members of the Board.

(2) The following cases shall be decided by the full Board (i.e., all five voting members) according to the procedures in rule 255-30-020:

(a) Any cases involving a prisoner sentenced to life imprisonment; convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim; sentenced under ORS 161.725 and 161.735 as a dangerous offender;

(b) Whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel or deny parole;

(c) Whenever a minimum sentence imposed by a judge pursuant to ORS 144.110 exceeds the applicable matrix guideline range in Exhibit C plus the maximum variation from the range shown in Exhibit D;

(d) Whenever a panel recommends a decision below a judicially set minimum sentence;

(e) Whenever an extension of a prison term due to institutional misconduct for more than one (1) year is recommended.

[ED.NOTE: The Exhibits referred to in the above rule are not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Procedures for Full Board Decisions

255-30-020 The following procedures shall apply to cases decided by the full Board:

(1) A hearing shall be conducted by the Board with at least a quorum present when:

(a) Setting a prison term for prisoners falling under subsection 255-30-015(2)(a);

(b) The Board considers denying parole, except when denial is because the guideline range exceeds the good time date on a sentence;

(c) Extending a prison term, in any case, for longer than one (1) year.

(2) Prisoners in custody in another jurisdiction may be heard by a conference call or returned to Oregon for the hearing.

(3) If a Board member is not present at a hearing, he/she shall vote after reviewing the record of the hearing.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

#### Procedures for Hearings Involving Out of State Jurisdictions

255-30-021 A prisoner in custody in another jurisdiction may be returned to Oregon or heard by teleconference call.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 7-1985, f. & ef. 5-31-85

#### Who May Appear at a Parole Board Hearing

255-30-025 (1) The prisoner shall appear at the Parole Board hearing. Willful failure to appear does not relieve the Board of its responsibility to make a decision in the prisoner's case. Exceptions being those inmates who fail to appear due to circumstances beyond their control.

(2) The prisoner may be accompanied by a person of the prisoner's choice. Procedures for admission to a Parole Board hearing will be governed by the Corrections Division rule governing visiting. The person accompanying the prisoner may make a statement, not to exceed three (3) minutes, at the conclusion of the hearing.

(3) Assistance to prisoners incapable of presenting their position due to language barriers, mental or emotional incapacity or educational deficiency shall be provided to prisoners meeting these criteria by persons recommended by the institution superintendent and appointed by the chairperson of the panel.

(4) If the prisoner needs assistance and has an assistant appointed by the chairperson pursuant to this rule, this shall not pre-

clude the prisoner being accompanied to the hearing by a person of the prisoner's choice.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 10-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Panel Decisions: Use of Guidelines; Unanimity Requirement

255-30-030 (1) The panel shall consider the case in accordance with the guidelines in Division 35.

(2) The decision of a panel of two (2) members must be unanimous. In the absence of a unanimous decision, there is a no quorum vote. In such a case, each panel member shall forward his/her recommendation to the chairperson for reassignment. No matter so reassigned shall be decided by fewer than three (3) affirmative votes. This may be done by another two-member panel reaching a unanimous decision in agreement with a member of the prior panel. Should a unanimous decision by three members not be obtained, the case will be reassigned to the Full Board.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Information the Board Must Consider at a Prison Term Hearing: Parole Analysis Report; Other Material

255-30-035 (1) The Corrections Division will provide a Pre-Sentence Investigation or similar report to the Board prior to the prisoner's prison term hearing. This report shall be prepared according to the sectional outline in Exhibit F. Any transcripts forwarded by the sentencing judge shall be attached to the Pre-sentence Investigation.

(2) Additional information and recommendations from police, district attorney, defense attorney, and others with a special interest in the case shall be considered if available. Such information shall be subject to disclosure to the prisoner.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 16-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 7-1985, f. & ef. 5-31-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Prisoner's Access to Written Materials Considered at Hearings and Interviews

255-30-040 All information the Board is to consider at a hearing regarding the prisoner, except that exempted by ORS 192.500 (2) (d), shall be reduced to writing and made available to the prisoner.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Exemptions from Disclosure

255-30-045 (1) Prisoners shall have access to written materials, including psychiatric and psychological reports prepared for Board use, which the Board considers, with the following exception:

(a) Information or records of the Corrections Division, to the extent that disclosure thereof would interfere with the rehabilitation of the person;

(b) Information or records, the disclosure of which would substantially prejudice or prevent the Corrections Division from carrying out its normal functions; or

(c) If the public interest in confidentiality clearly outweighs the public interest in disclosure.

(2) Prisoners shall have access to psychiatric and psychological reports not prepared solely for the Board's use that are considered in a hearing concerned with the release or parole of a prisoner, except when:

(a) Release of the information would constitute an immediate and grave danger to the prisoner;

(b) The information relates to an individual other than the prisoner seeking it;

(c) The release of the information would constitute a danger to another person; or

(d) The release of the information would compromise the privacy of an individual source.

(3) Disclosure of medical, psychiatric, and/or psychological records may be in the form of an accurate, representative summary of the complete contents of the written materials.

(4) When disclosure of information is denied, a written statement of the reasons for denial must be entered into the record.

(5) Written materials subject to disclosure to be considered by the Board shall be sent to the inmate at the same time the material is made available to the Board.

(6) Where a particular document contains information that is exempt from disclosure, exempt material shall be separated from non-exempt material and the non-exempt material must be disclosed.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Record of Hearing: Content; Time to be Maintained

255-30-050 Record of the prison term hearing and any other hearings shall be kept by the Board for at least two (2) years. The record shall contain:

(1) Documents considered by the Board at the hearings, which shall be kept in a separate file; documents considered but not disclosed shall be specifically noted as undisclosed;

(2) A statement of the facts and specific reasons for actions taken by the Board and the individual votes of the Board members;

(3) A record of the oral proceedings of the hearing, with the exception of the deliberations of the Board. (This record may be kept by any manual or electronic means which is capable of being transcribed. Once transcribed, the transcript may be substituted for the original record.)

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

Notification of Decision: Parties Notified; Content

255-30-055 (1) Following a Board decision, the prisoner, sentencing court, district attorney, Corrections Division, and upon request, the prisoner's counsel shall be notified in writing of the Board action.

(2) Such notification shall state the specific facts and reasons for the Board decision, including the history/risk score, offense severity rating, range and date set, the specific facts and reasons for a Board decision to go outside the applicable guideline range or to deny parole, and the votes of the individual Board members.

(3) The prisoner shall be given written notice of his/her right to administrative appeal of the decision as set forth in Division 80 of these rules.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 32 --  
BOARD OF PAROLE

DIVISION 32

AGGRAVATED MURDER

Prison Term Hearing to be Held

255-32-005 A person convicted of Aggravated Murder under ORS 163.095 shall receive a prison term hearing under the provisions of Division 30 of these rules.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 8-1985, f. & ef. 5-31-85

Minimum Period of Confinement Pursuant to ORS 163.105

255-32-010 (1) The minimum period of confinement for a person convicted of Aggravated Murder as defined by ORS 163.105(1) shall be thirty (30) years.

(2) The minimum period of confinement for a person convicted of aggravated murder as defined by ORS 163.105(2) shall be twenty (20) years.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 8-1985, f. & ef. 5-31-85

Petition for Hearing

255-32-015 At any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(1), or at any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(2), upon petition of a prisoner so confined, the Board shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 8-1985, f. & ef. 5-31-85

Purpose of Hearing

255-32-020 The sole issue of the hearing shall be to determine whether or not the prisoner is likely to be rehabilitated within a reasonable period of time.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 8-1985, f. & ef. 5-31-85

Manner of Hearing

255-32-025 (1) The proceeding shall be conducted in the manner prescribed for a contested case hearing under ORS 183.310 to 183.550 except that:

(a) The prisoner shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and

(b) The prisoner shall have the right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the Board, at state expense.

(2) If upon hearing all the evidence, the Board finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall enter an order to that effect and the order shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole or work release. Otherwise, the Board shall deny the relief sought in the petition.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 8-1985, f. & ef. 5-31-85

Effect of Denying Relief Requested

255-32-035 If the Board finds that the prisoner is not capable of rehabilitation, the Board shall deny the relief sought in the prisoner's petition. Not less than two years thereafter, the prisoner may petition again for relief.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 8-1985, f. & ef. 5-31-85

Record/Notice

255-32-040 Provisions for maintaining a record of hearings and providing notice of decision shall be those set forth in Division 30 of these rules

Stat.Auth.: ORS Ch. 144

Hist: 2PB 8-1985, f. & ef. 5-31-85

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 35 --  
BOARD OF PAROLE

DIVISION 35

APPLICATION OF THE GUIDELINES  
TO ESTABLISH A PRISON TERM

Definitions

255-35-005 (1) "Crime severity rating": The classification given to a prisoner's commitment crime according to the seriousness.

(2) "History/risk score": Refers to the Criminal History/Risk Assessment. It is a rating, from a high of eleven (11) to a low of zero (0) points, based on the seriousness of the prior record and factors reflecting likelihood of success on parole.

(3) "Guideline ranges": Ranges of months to be served as a prison term before parole release for each crime severity rating and history/risk score.

(4) "Guideline matrix": A table which displays the guideline range by showing the intersection of the crime severity rating and the history/risk score.

(5) "Initial parole release date": A fixed date, by month, day and year, assigned to a prisoner for parole release based on the guideline range for his/her particular offense severity rating and history/risk score.

(6) "Particularly violent or otherwise dangerous criminal conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

(7) "Serious physical injury": An injury which creates or causes substantial risk of death, or serious and protracted disfigurement, or protracted impairment of health or the protracted loss or impairment of the function of any bodily organ.

(8) "Harm-loss": The actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.

(9) "Principal range": The range for the crime holding the highest severity.

(10) "Subordinate range": The shorter range, or if two or more ranges are identical the remaining range or ranges shall be the subordinate range or ranges.

(11) "Base range": The range for each crime category that is reflected in Exhibit C under the "Excellent" column.

(12) "Summing the ranges": An action taken in cases where sentences have been imposed consecutively in which the base range for each consecutive sentence is added to the principal range.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the Adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Rating Crime Severity: Generally, Multiple Concurrent Convictions

255-35-010 (1) The Board shall assign a crime severity rating from one to seven, according to Exhibit A, for each prisoner's commitment crime(s).

(2) Two or more convictions with sentences to be served at the same time (concurrent sentences) shall be rated according to the most serious crime. The prisoner shall be given a prison term that results in the longest incarceration.

(3) When there are two (2) or more sentences that have been imposed consecutively, each crime shall be rated separately in accordance with rule 255-35-022.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 2-1981, f. 3-5-81, ef. 4-1-81; 2PB 4-1981(Temp), f. & ef. 11-4-81; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Board to Make Findings of Fact Regarding Offense Severity; Waiver of Exit Interview; Establishing Conditions of Parole

255-35-012 [2PB 4-1981(Temp), f. & ef. 11-4-81;

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 9-1985,

f. & ef. 5-31-85]

Factors Which Determine An Initial Parole Release Date

255-35-013 (1) Except in those cases under OAR 255-32-025 the Board shall make findings of fact regarding a prisoner's:

- (a) Crime severity rating (Exhibit A);
- (b) History/risk score (Exhibit B);
- (c) Guideline range (Exhibit C);
- (d) Aggravation/mitigation (Exhibit E).

(2) The Board shall then, except as provided by OAR 255-35-030 (parole denial) and 255-38-005 (dangerous offenders), establish an initial parole release date and inform the prisoner of that date.

[ED.NOTE: The Exhibits referred to in the above rule are not printed in the Oregon Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 9-1985, f. & ef. 5-31-85

Criminal History/Risk Assessment

255-35-015 The Board shall use the table in Exhibit B to make a criminal history/risk assessment and shall assign a score from zero (0) to eleven (11) as set forth in Exhibit B as a formal finding of fact in the prisoner's presence at the prison term hearing.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1980(Temp), f. 4-7-80, ef. 5-1-80; 2PB 4-1980(Temp), f. & ef. 12-8-80; 2PB 15-1981(Temp), f.

*Printed*

& ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Establishing Conditions of Parole

255-35-016 (1) If the Board in setting a release date waives a parole release hearing it shall specify condition(s) of parole including special conditions that shall be added to the parole order in accordance with OAR 255-70-001.

(2) The Board may order an exit interview prior to the release of the prisoner on parole.

(3) Parole conditions may be amended administratively by a panel of the Board; changes shall be supported by written findings.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 9-1985, f. & ef. 5-31-85

Effect of Time on Escape on Prison Terms

255-35-020 Inoperative Time on Escape: In establishing the parole release date for a person who has escaped from a state correctional facility, time on escape shall not count toward the completion of the prison term. The time on escape prior to the parole release date shall be added to the prison term.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Consecutive Sentences: Effect of Consecutive Sentences on Establishing a Prison Term

255-35-022 (1) When consecutive sentences have been imposed, a rating and a range shall be assigned for each crime.

(2) The Board shall consider the summed ranges as a single unified range. Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum.

(3) In summing the ranges, the Board shall first establish the crime category, history risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.

(4) The Board may, by four (4) concurring votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.

(5) The following factors may be considered by the Board in determining whether or not to sum the ranges:

(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:

(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;

(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;

(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.

(D) When the ranges or minimum sentences, if any, are sufficient sanction without summing the ranges.

(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:

(A) When the history/risk score for the principal range is three (3) or more;

(B) When the crimes are part of the same criminal episode;

(C) When minimum sentences exceed the range of the principal range;

(D) When sufficient mitigation is present (refer to Exhibit E).

(6) When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board with or without a recommendation.

(7) If the panel finds that the prison term established according to matrix guidelines is inadequate because of aggravation or mitigation, it shall secure a third vote or refer the matter to the full Board for consideration whichever is appropriate.

(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation:

(a) If a single consecutive sentence is imposed, the prison term shall be established as for a single new sentence and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment;

(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences;

(c) Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.

(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the full Board to consider treating the ranges concurrently.

(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.

[ED. NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat. Auth.: ORS Ch. 144  
Hist: 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Effect of Judicial Minimum Sentences on Prison Terms Under ORS 144.110

255-35-023 (1) The Board shall not release a prisoner before a judicially imposed minimum prison term sentence has been served except when at least four members of the Board find that:

(a) The court applied the guideline rules incorrectly; or

(b) The Board has information not available to the court at the time of sentencing; or

(c) The court's findings, though technically correct, lead to an inequitable result.

(2) The Board shall state the facts and reasons for its actions and it shall then inform the sentencing court of its decisions and reasons. The Board shall then set an initial parole release date in accordance with rule 255-35-013.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 9-1985, f. & ef. 5-31-85

Effect of Judicial Mandatory Minimum Sentences on Prison Terms Under ORS 161.610

255-35-024 (1) In no case shall any person punishable under ORS 161.610 become eligible for work release or parole until the minimum term of imprisonment is served, less reductions of imprisonment for good time served.

(2) The Board shall establish the prisoner's initial release date pursuant to OAR 255-35-015.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 9-1985, f. & ef. 5-31-85

Setting a Parole Release Date: When Guideline Range Exceeds Good Time Date

255-35-025 When the Board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates, the guideline range shall be as follows in order to allow a period of parole supervision:

(1) Up to the statutory good time date on a sentence of one year or less;

(2) Six months from the statutory good time date on a sentence of more than one year and less than three years;

(3) Nine months from the statutory good time date on a sentence of three years up to six years.

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1980(Temp), f. 4-7-80, ef. 5-1-80; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Parole Denial: When Parole May be Denied

255-35-030 (1) The Board with four (4) affirmative votes may choose not to set a parole release date pursuant to ORS 144.120(4) when:

(a) The crime of commitment included particularly violent or otherwise dangerous criminal conduct as defined by section 255-35-005(6); or

(b) The crime was preceded by two (2) or more convictions of a class A or class B felony; or

(c) The prisoner's record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance such as to constitute a danger to the health or safety of the community and/or the prisoner.

(2) Notwithstanding provisions of ORS 144.120, parole may be denied when the prisoner's guideline range is longer than the statutory good time date on the sentence imposed.

(3) If a two-member panel decides that parole should be denied, it shall refer the matter to the full Board for consideration with its recommendation.

(4) When the Board chooses not to set a parole release date, it shall clearly state on the record the facts and specific reasons for that decision.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 9-1985, f. & ef. 5-31-85

Variations From the Ranges for Aggravation or Mitigation: Statements for Record, Prior Disclosure to Prisoners

255-35-035 (1) The Board may depart from the appropriate range only upon making a specific finding, by a preponderance of the evidence, that there is aggravation or mitigation which justifies departure from the range. The Board shall clearly state on the record the facts and specific reasons for its finding:

(a) Information considered by the Board in determining whether aggravation or mitigation exists shall be disclosed prior to the hearing to permit the prisoner an opportunity to respond before the Board finds aggravation or mitigation.

(b) Any aggravating or mitigating circumstances which constitute a defining element of the crime or subcategory of the crime being rated, or which resulted in a lower history/risk score, shall not justify variation from the guidelines.

(c) Plea Bargained Sentences: The Board may deem it aggravating circumstances if the prisoner has pled guilty to the crime of commitment and:

(A) The prisoner has admitted or stipulated to facts either in court or before the Board which show the occurrence of more serious charges or other charges which have not been brought or have been dismissed; or

(B) The court or the Board finds, by a preponderance of the evidence, that the prisoner's actual criminal conduct was of a different degree of seriousness than the crime of which he/she was convicted according to the rankings in Exhibit A. In such cases, the Board shall state the actual criminal conduct on the record.

(d) Sentence imposed as Aggravating or Mitigating Factor: The Board shall deem the sentence an aggravating or mitigating circumstance, which allows a variation from the guidelines, if it finds, by a preponderance of the evidence, that such sentence and the reasons for the sentence stated on the record by the sentencing judge pursuant to ORS 137.120(2) disclose:

(A) The presence of any aggravating or mitigating circumstances described in subsection (1)(c) of this rule or in Exhibit E;

(B) Other reasons showing enhanced or reduced harm or risk of harm involved in the criminal conduct, or enhanced or reduced culpability on the part of the prisoner when committing such conduct.

(2) When a panel, based upon its findings, is of the opinion that the aggravating or mitigating circumstances are so substantial that a greater departure from the guideline range is required than is permitted to a panel in Exhibit D, it shall secure a third vote or refer the matter to the full Board for consideration, whichever is appropriate:

(a) The sole issue the full Board shall consider is whether the aggravating or mitigating circumstances found by the panel are of such consequence as to require departure from the variations permitted a panel in Exhibit D, or choose not to set a parole release date.

(b) The maximum allowable variations from a range are shown in Exhibit D.

(c) Before the Board can deny parole, the prisoner must be given a hearing before the full Board. For prisoners who are incarcerated outside of Oregon, the hearing may be conducted by a conference telephone call.

(d) The Board shall clearly state on the record the facts and specific reasons for its decision to exceed the normal variations permitted a panel.

[ED.NOTE: The Exhibits referred to in the above rule are not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting Agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1980(Temp), f. 4-7-80, ef. 5-1-80; 2PB 3-1980, f. & ef. 8-15-80; 2PB 4-1981(Temp), f. & ef. 11-4-81; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Resetting Pre-Guideline Parole Hearing Dates for Category 7 Offenders  
255-35-040 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 9-1985,

f. & ef. 5-31-85]

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 38 --  
BOARD OF PAROLE

DIVISION 38

DANGEROUS OFFENDERS

Permissible Action: Setting Parole Consideration Hearing Instead of a Release Date, Setting Release Dates and Statutory Reviews

255-38-005 (1) Notwithstanding the provisions of Division 60, the Board shall not set a parole release date for a person sentenced under ORS 161.725 and 161.735 as a dangerous offender. The Board shall within six (6) months after commitment to the custody of the Corrections Division set a parole consideration hearing date instead of a parole release date as otherwise required by Division 60. The parole consideration hearing date shall be at the earliest time the prisoner would be eligible for release. If the condition (e.g., psychiatric or psychological diagnosis of a present severe emotional disturbance, such as severe personality disorder indicating a propensity toward criminal activity) is still present, reviews will be scheduled at least every two (2) years thereafter. If at the parole consideration hearing or a subsequent review the condition is determined to be absent or in remission, the Board shall set a release date or order parole if the prisoner is otherwise eligible under the rules.

(2) The Board shall set a parole consideration hearing date pursuant to the provisions in Division 35.

(3) At any hearing or review, the Board shall consider the report of the executive officer of the facility in which the prisoner is confined regarding the prisoner's conduct, attitude, and work record as defined in ORS 144.228(2) and a psychiatric or psychological report received within two (2) months of the hearing:

(a) The Board shall not set a parole release date unless the psychiatric or psychological report reveals that the severe emotional disturbance which has made the prisoner dangerous is no longer present;

(b) If the disturbance is present, the Board may defer release to a specified future time or deny parole under rule 255-35-030.

(4) Notwithstanding the above, a prisoner sentenced as a dangerous offender under ORS 161.725 and 161.735 may, if the prisoner believes that he is no longer dangerous, request a parole consideration hearing. Should the Board find based upon the request that there is a reasonable cause to believe the dangerous condition is in remission, the Board shall order a parole consideration hearing pursuant to the above procedures. Applications received more often than every two years will carry a greater burden in establishing that the request is reasonable.

(5) Support for the application from the superintendent of the institution in which the prisoner has been confined under section (4) of this rule, shall be considered reasonable cause pursuant to section (4) of this rule.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 9-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 10-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 40 --  
BOARD OF PAROLE

DIVISION 40

REVIEWS, REOPENING CASES, AND  
REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005 (1) Personal reviews shall be conducted after the prisoner has served five (5) years of his prison term and every three (3) years thereafter, starting with the date the prisoner's sentence begins to run. Such review will be conducted to determine the progress of the prisoner and whether such progress is exceptional as to warrant a reduction in the prison term.

(2) Prisoners sentenced for aggravated murder or as dangerous offenders and those parole denied are not subject to personal review.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Procedure for Personal Reviews

255-40-010 Personal reviews shall be conducted by a panel or a Full Board pursuant to OAR 255-30-015.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 11-1985, f. & ef. 5-31-85

Purpose

255-40-015 [2PB 1-979, f. & ef. 2-1-79;

Repealed by 2PB 11-1985,

f. & ef. 5-31-85]

Reopening Cases: When; What is Necessary

255-40-020 The Board may reopen any case for reconsideration upon formal written request of a prisoner to the chairperson or by the motion of a Board member if:

(1) Substantial new information which was unknown at the time of the prison term hearing has been received;

(2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information pertinent to a prior Board action has been received;

(3) Statutory changes have reclassified the criminal conduct involved;

(4) Rule changes have resulted in a shorter range;

(5) Clerical error is established. The Board shall take administrative action by file pass to correct the error. The prisoner shall be notified in writing of Board action. If the Board takes action which would be adverse to the prisoner, the Board shall reopen the hearing.

(6) The Board shall state the specific reasons for denial of a request to reopen a hearing.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

#### Reductions in Prison Terms: Effect of Minimum Terms

255-40-025 (1) An established prison term as defined in section 255-30-005(2) may be reduced upon the prisoner's application for a hearing and with the concurrence of the institution superintendent. Such a request for a hearing must come to the Chairperson of the Board and with the concurrence of the majority of the Board a hearing will be scheduled:

(a) If the prisoner has a judicial minimum sentence under ORS 144.110 such minimum must be overturned by four (4) concurring votes before a reduction can be granted.

(b) If the prisoner has a mandatory minimum sentence under ORS 161.610 a reduction cannot be granted below the mandatory minimum sentence.

(2) Reductions in prison terms may be granted by the Board only upon showing by the prisoner an extended course of conduct indicating outstanding reformation. Cases will be determined on individual merits; however, the criteria may include:

(a) A five (5) year period of good conduct;

(b) Demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);

(c) Cooperation with authorities where a substantial benefit is derived by the authorities.

(3) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:

(a) A report prepared by medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and

(b) Recommendation from superintendent of institution; and

(c) Recommendation from Administrator of Corrections Division.

(4) Reductions other than those granted for severe medical conditions or cooperation with authorities shall be limited to a maximum of 20% of the prison term under review:

(a) Reductions shall customarily be considered at personal reviews under rule 255-40-005;

(b) Special requests for reduction supported by the superintendent which do not coincide with the personal interviews shall be scheduled for a hearing with the concurrence of the majority of the Board.

(5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for a date reduction.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-979, f. & ef. 2-1-79; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Who May Appear  
255-40-030

[ 2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 11-1985,

f. & ef. 5-31-85]

Notice; Disclosure; Record

255-40-035 The notice, disclosure, and record making provisions of Division 30 shall apply to all hearings and interviews in this Division.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79

DIVISION 50

POSTPONING A PAROLE RELEASE  
DATE FOR SERIOUS MISCONDUCT

Postponing a Parole Release Date for Serious Misconduct

255-50-005 A prison term may be extended to a later date for serious misconduct according to the following procedure:

(1) The institution disciplinary committee or the Corrections Division Hearings Officer may recommend an extension of a prisoner's parole release date as a disciplinary sanction;

(2) Recommendation to extend a prison term shall be made according to the following guidelines:

(a) The prisoner must be given an opportunity for a disciplinary hearing and have been found to have violated an adopted rule governing conduct. The recommendation by the presiding officer of the disciplinary court must be approved by the institutional superintendent and the Administrator of the Corrections Division before the Board can consider an extension;

(b) In no instance shall an extension of a prison term be recommended unless all other disciplinary options have been specifically considered and deemed to be, individually and in combination, inadequate to the seriousness of the misconduct in terms of the following factors:

(A) Effectiveness of the sanction as a disciplinary measure, both to the prisoner and to the general prisoner population;

(B) Degree of hazard posed by the misconduct to human health and/or life, facility security, or to property;

(C) Seriousness of the misconduct had it been committed in the wider community;

(D) Circumstances of the misconduct; and

(E) The prisoner's prior record of conduct.

(3) A prison term shall not be extended unless the misconduct can be classified within one (1) of the four (4) categories as listed in Exhibit G. The extension must be set within the range for the category of misconduct unless the Board finds aggravation or mitigation based on those factors listed in rule 255-35-035, Exhibit E. If a basis for aggravation or mitigation is found by the Board, the maximum variation

allowed to a majority of the Board would be twenty-five (25) percent of the sanction recommended. Any greater variation than twenty-five (25) percent or resets in excess of two years will require concurrence by at least four (4) voting members of the Board. (See Exhibit D).

(4) When the recommended extension of the prison term exceeds the prisoner's statutory good time date or the expiration date of the sentence the effect is to deny parole.

(5) If serious misconduct occurs before a prisoner's prison term has been established and an extension of the prison term would be justified, the term for misconduct will be added to the prison term.

(6) If serious misconduct occurs after a prison term has been established and an extension of the prison term would be justified, the chairperson of the Board may take steps to postpone release and order a postponement hearing to consider extending the prison term.

Stat. Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85

Postponement Procedures: Hearing by Board; Board Action

255-50-010 (1) When the Board is notified by the Administrator of the Corrections Division that an extension of a prison term has been recommended, a panel or the Full Board may conduct a hearing to determine whether the misconduct requires extension. The recommendation also may be resolved by Administrative File Pass. When a hearing is to be held the following procedure will apply:

(a) The prisoner shall be given notice of the hearing and its purpose; the provisions of Division 30 as to appearance, disclosure, and record shall apply;

(b) A prisoner may not waive his/her right to appear;

(c) A prisoner may not relitigate facts which have been found at the institution disciplinary court.

(2) Serious misconduct is classified within one of the four categories listed in Exhibit G.

(3) The Board may request the prisoner be given another hearing before the disciplinary committee originating the recommendation for extension or choose not to extend a prison term if the Board does not find that all other disciplinary options are inadequate to the seriousness of the misconduct, considering the factors found in rule 255-50-005.

(4) The Board may continue the postponement hearing and order a psychiatric or psychological examination when it appears that a severe emotional disturbance may be present. If there is a psychiatric or

psychological diagnosis of present severe emotional disturbance, such as to constitute a danger to himself, others, the Board may defer release to a specified future date. In choosing not to set a parole release date, rule 255-35-030 shall control.

(5) If the Board extends the prison term, the prisoner shall be given:

(a) A written statement of the facts and specific reasons for the decision, including the individual votes of the Board members; and

(b) Notice of the right to administrative appeal under Division 80.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85

#### Rescission of Parole: Voluntary Absence

255-50-015 (1) The Board may administratively rescind a parole release date when the Board is informed of reasonable grounds to believe a person has violated a law. A fact-finding hearing shall be held by a Hearings Officer to determine if the law violation did occur.

(2) The parole release of a prisoner who is voluntarily absent from a facility shall be voided by the chairperson. A hearing may be scheduled when the prisoner is available.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 13-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 12-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

#### Postponement Procedure; Voluntary Absence

255-50-016 The procedure for a Postponement Hearing shall be in accord with the provisions of rule 355-50-010.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 13-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 12-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Waiver

255-50-017  
25-81;

[2PB 13-1981(Temp), f. & ef. 11-

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 12-1985,

f. & ef. 5-31-85]

Hearing After Rescission of Parole

255-50-018  
25-81;

[2PB 13-1981(Temp), f. & ef. 11-

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 12-1985,

f. & ef. 5-31-85]

Basis for Rescission

255-50-020

25-81;

[2PB 1-1979, f. & ef. 2-1-79;

2PB 13-1981(Temp), f. & ef. 11-

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 12-1985,

f. & ef. 5-31-85]

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 60 --  
BOARD OF PAROLE

DIVISION 60

PAROLE RELEASE

*Completed  
Parole Hearing  
Re 5-19-99*

Exit Interview Purpose: To Review Parole Plan, Prison and Psychiatric Records/Notification of Prisoner

255-60-005 (1) At any time prior a prisoner's scheduled parole release date, the Board may conduct a parole release hearing to review the prisoner's parole plan, psychiatric/psychological reports, if any, and conduct while in confinement. Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Corrections Division.

(2) At a reasonable time prior to the hearing, the Board shall notify the prisoner of the scheduled hearing. The prisoner may provide to the Board any information he/she feels is pertinent to release.

(3) Disclosure of information is governed by the rules of Division 30.

(4) The parole release hearing shall be conducted by a panel or Full Board in accordance with OAR 255-30-015.

(5) The Board shall examine the prisoner's plans for residence, employment, or other situation in the community to determine whether the parole plan is adequate:

(a) An acceptable plan may include employment, school, or other situation (e.g., retirement income), and verifiable residence; it may require treatment programs and prescribed medication;

(b) Parole release may be deferred up to (ninety) 90 days from the parole release date when a plan is deficient or unverified in order to obtain verification of a satisfactory plan from the Corrections Division. A report shall be presented to the Board after sixty (60) days by the Corrections Division, pursuant to ORS 144.125(4).

(c) A prisoner requesting an out-of-state parole waives the ninety (90) day limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.

(6) The prisoner shall receive notice of the parole release hearing results, including the facts and specific reasons for the decision and the individual votes of the Board members.

(7) If the record indicates that a psychiatric or psychological condition of severe emotional disturbance, such as to constitute a danger to the health or safety of the community, is present, the Board

may order a psychiatric/psychological report to consider the deferral of the scheduled parole release until a specified future date:

(a) The psychiatric or psychological evaluation shall be conducted to determine if a severe emotional disturbance still exists or is in remission. The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of individual's personality, intelligence level, personal and social adjustments, or other pertinent data. The evaluation should include recommendations for treatment or medication that would assist the prisoner in performing satisfactorily in the community upon release.

(b) The Board may not deny release on parole solely because of a prisoner's severe emotional disturbance.

(8) If a parole is released by the Corrections Division to a detainer of another jurisdiction and is recommitted to the Corrections Division the previous parole order shall be voided.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 8-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 13-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Waiver of 90-Day Limitation; Deferral for Serious Misconduct

255-60-010 [2PB 1-1979, f. & ef. 2-1-79;  
2PB 2-1980, f. & ef. 5-20-80;  
2PB 1-1981, f. 1-20-81, ef. 2-15-  
81;  
2PB 8-1981(Temp), f. & ef. 11-4-  
81;  
2PB 1-1982, f. & ef. 5-19-82;  
Repealed by 2PB 13-1985,  
f. & ef. 5-31-85]

Instate Parole Release Interview Procedures  
255-60-015 [2PB 1-1979, f. & ef. 2-1-79;

2PB 8-1981(Temp), f. & ef. 11-4-

81;

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 13-1985,

f. & ef. 5-31-85]

Out-Of-State Parole Release Hearing Procedures

255-60-020 A prisoner who is in the custody of the Corrections Division who is housed in an out-of-state facility shall receive a parole release hearing if ordered by the Board in conformance with rule 255-60-005. All proceedings may be conducted by conference telephone call.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 13-1985, f. & ef. 5-31-85

Parole Consideration for Prisoners in a Local Jail

255-60-025 [2PB 1-1979, f. & ef. 2-1-79;

2PB 8-1981(Temp), f. & ef. 11-4-

81;

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 13-1985,

f. & ef. 5-31-85]

DIVISION 65

RESTITUTION

When Restitution is Ordered Upon Parole Release: Establishing a Payment Schedule; Limitations

255-65-005 When a person has been sentenced pursuant to ORS 137.106 to pay restitution for a crime committed after October 4, 1977, and any portion of that payment is deferred until after release from imprisonment, the Board shall establish a schedule of payments:

(1) In establishing and supervising a schedule of payments, the Board shall consider:

(a) The prisoner's financial resources, including salary, savings, and liquid assets;

(b) The burden that it will impose in light of the person's overall obligations (e.g., family and necessary living expenses);

(c) Ability to pay on an installment or other conditional basis;

(d) The rehabilitative effect of the payment and the method of payment.

(2) Normal payments shall range from ten (10) to twenty (20) percent of a person's take-home salary without voluntary payroll deductions, unless significant savings or liquid assets permit larger amounts;

(3) The Board shall provide to the sentencing court a copy of the schedule of payments and any modifications thereof.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Sentence Including Restitution as Mitigation

255-65-010 Restitution is a form of punishment which requires an offender to assume responsibility for his/her criminal conduct by assuming the loss incurred. The Board shall consider a sentence to pay

restitution after a term of imprisonment as mitigation in setting a parole release date.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 14-1985, f. & ef. 5-31-85

Supervision of Payments: Conditions of Parole; Default by Parolee; Effect on Discharge

255-65-015 (1) Payment of restitution shall be included as a special condition of parole:

(a) Payments shall be made to the clerk of the court of the county of sentencing;

(b) The method and manner of payment shall be established by the individual's parole officer.

(2) When a parolee defaults on any scheduled payment, the supervising parole officer shall notify the Board. The default shall be grounds for revocation of parole unless the parolee shows:

(a) The default was not due to an intentional refusal to make the payment;

(b) The default occurred despite a good faith effort to make the payment.

(3) If total payment of restitution has not been made by the completion of the designated period of supervision, the parolee shall be continued on parole until completion of payment or the expiration of his/her sentence, whichever is first.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Establishment of Supervision Fees; Criteria; Disbursement of Fees

255-65-020 (1) When a person is placed on parole, subject to supervision by either the Corrections Division or a community corrections program established under ORS 423.500 to 423.560, the person shall be required to pay a monthly fee to offset costs of supervising parole. The fee shall be twenty dollars (\$20) unless a greater fee is recommended by the Corrections Division and approved by the Board using the same criteria set forth in rule 255-65-005(1)(a), (b) and (c). In no case shall the fee be less than ten dollars (\$10) per month.

(2) The fee established pursuant to section (1) of this rule shall be a condition of parole and intentional and willful failure to pay such fee shall be grounds for revocation of parole or extension of the supervision period.

(3) In cases of financial hardship or when otherwise advisable in the interest of the released person's rehabilitation, the community program director or the Assistant Director of Corrections, whichever is appropriate, may waive the payment of the fee in whole or in part.

(4) Fees collected shall be transferred to the Corrections Division or retained by the county as provided by statute.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 70 --  
BOARD OF PAROLE

DIVISION 70

CONDITIONS OF PAROLE

Conditions of Parole

255-70-001 Conditions of parole may be imposed by the Board pursuant to OAR 255-35-016. Conditions of parole are not limited to those shown in Exhibit J.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 15-1985, f. & ef. 5-31-85

Parolee Placement in Community Corrections Centers: Standards; Limitations

255-70-005 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 15-1985,

f. & ef. 5-31-85]

Guidelines on Standard Condition Relating to "Best Interest" Return  
255-70-010 As used in the standard conditions of the Order of Parole, revocation of parole when it is "in my best interest or in the best interest of society" shall refer to the following situations:

(1) The parolee is suffering from an emotional or psychological disturbance which makes him/her substantially dangerous to self or others if left in the community and which may be indicated by threatening behavior in the form of:

(a) Some overt act showing a present capacity to carry out any statements or threats of violence; or

(b) The substantial duplication of circumstances and conduct which led to the initial incarceration.

(2) The parolee's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program).

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1985, f. & ef. 5-31-85

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 255, DIVISION 75 - BOARD OF PAROLE**

**DIVISION 75**

**PROCEDURES FOR REVOCATION OF  
PAROLE**

**Definitions**

**255-75-001** (1) "Active Parole Supervision": Supervision requiring periodic contact and monitoring by the supervising officer to assure that the conditions of parole are being met, that the parolee has committed no new crimes and to assure repayment of restitution, if required.

(2) "Active Supervision" will not include:

(a) Period of confinement in local, state, or federal correctional facilities during the parole.

(b) The period of time between suspension of parole and the date parole is reinstated.

(3) "Major Technical Violation": A violation of parole condition involving the possession of a weapon or firearm, absconding supervision by leaving the State of Oregon without permission, a new law violation not resulting in a new felony sentence, or a finding pursuant to a hearing conducted under Division 75 that new criminal activity has occurred which constitute a Class "A" misdemeanor or felony.

(4) "Minor Technical Violation": "Violations" as described by ORS 161.565 and 161.575 and all parole violations except major technical violations and law violations.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1985, f. & ef. 2-28-85

**Suspension of Parole; Citation**

**255-75-002** When the Board is informed of reasonable grounds to believe a person has violated the conditions of parole and that revocation of parole or extension of the conditional discharge date may be justified, the Board may:

(1) Suspend parole and order the parolee arrested and detained pending a parole violation hearing; or

(2) Issue a citation to appear at a parole revocation hearing, without first suspending parole or ordering detention. The citation may be effected by the Board or its designated representative.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Criteria For Allowing Parolee to Remain in Community Pending Hearing**

**255-75-003** In determining whether to allow a parolee to remain in the community pending the parole violation hearing, the Board may consider:

(1) The seriousness of the allegations and the risk to the community;

(2) The likelihood of the parolee absconding or failing to appear at the hearing;

(3) The availability of bail (when applicable);

(4) The availability of resources in the community such as residence and/or employment;

(5) Any recommendation by the parole officer.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Hearing Requirement: Procedure**

**255-75-005** (1) Before the Board can revoke parole, it shall conduct a parole violation hearing.

(2) The hearing shall be held within a reasonable time after the Board is notified of the alleged violations and reasonably near the place of the alleged violations or the place of confinement.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Method of Hearing**

**255-75-006** Hearings shall be conducted by conference telephone call. Exceptions will be made in the following situations by the hearings officer when:

(1) The alleged violations are contested and the parolee or attorney show that the credibility of the witness, including observation of his/her demeanor would be necessary.

(2) Physical exhibits are to be part of the record and viewing of the exhibits would be essential.

(3) There are unusual circumstances not covered by this section, to be determined at the discretion of the Hearings Officer.

(4) When circumstances dictate that hearings cannot be conducted by telephone conference call (i.e., no telephone available for hearings in the confining facility).

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 7-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Hearings Officer/Designated Representative**

**255-75-007** (1) The Board or its designated representative shall conduct the hearing.

(2) "Designated representative" shall include those persons designated by the Corrections Division as Hearings Officer.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Location of Hearing**

**255-75-008** [ 2PB 1-1984(Temp), f. & ef. 11-19-84]

**Board Action Upon Notification of Alleged Parole Violation:  
Criteria for; Release of Parolee Pending Hearing**

**255-75-010** [2PB 1-1979, f. & ef. 2-1-79;  
Suspended by 2PB 1-1984(Temp),

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 255, DIVISION 75 - BOARD OF PAROLE**

f. & ef. & ef. 11-19-84;  
Repealed by 2PB 1-1985, f. & ef. 2-28-85]

**Procedures When Parolee is in Another Jurisdiction: Return of Parolee**

**255-75-015** (1) The Board may suspend a parole and order the parolee's return to prison in Oregon without first conducting a hearing when:

(a) The parolee has left the state to which he/she was paroled without permission and is in custody in another jurisdiction;

(b) The parolee is in federal custody;

(c) The parolee has absconded from supervision and his/her whereabouts are unknown;

(d) The parolee has been convicted of a new crime in another jurisdiction.

(2) After the parolee is returned to prison in Oregon, he/she shall be given a parole revocation hearing according to the provisions of this Division.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Rights of a Parolee at a Formal Hearing**

**255-75-020** [2PB 1-1979, f. & ef. 2-1-79;  
Suspended by 2PB 1-1984(Temp),  
f. & ef. 11-19-84;  
Repealed by 2PB 1-1985, f. & ef. 2-28-85]

**Notice of Hearing**

**255-75-025** (1) The parolee shall be provided written notice of hearing at least three (3) calendar days prior to the hearing.

(2) The hearing notice will include:

(a) Notice of Rights;

(b) Written statement of alleged violations;

(c) Any documents or evidence which form the basis of the alleged violations.

(3) The parolee may elect to waive the 3-day notification period prior to the hearing and begin the hearing immediately with the hearings officer taping the parolee's verbal statement.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Waiver of Hearing**

**255-75-026** (1) In all cases, the parolee may waive the right to a hearing by signing a Notice of Rights form.

(2) Waiver of the right to a hearing acknowledges there has been a violation of conditions of parole in whole or in part.

(3) If parolee waives the right to a hearing, he/she may offer written or verbal statement pertaining to the violation:

(a) Written statement must be submitted to the Parole Board or its designated representative within five (5) days after waiver of hearing.

(b) Any statement made to the designated representative at the time of waiver must be recorded.

(4) If parolee waives the right to a hearing, the hearings officer will submit to the Parole Board the following:

(a) Notice of Rights form;

(b) Any parolee statements;

(c) Hearing Report Summary; and

(d) Any supporting information.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Board Rejection of Waiver**

**255-75-030** If the Board is not satisfied that the waiver was made knowingly and intelligently or if it believes more information is necessary before making its decision, it may order a hearing.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Hearings Process**

**255-75-031** (1) The parole officer will present information at the hearing and arrange for the presence of witnesses for the state/county and/or evidence unless hearing is waived.

(2) The hearings officer will make a tape recording of the hearing.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Representation/Determination of Ability to Pay Attorney Fees**

**255-75-035** In all cases, the parolee is entitled to:

(1) Board-appointed counsel at parolee's request to represent indigent parolee if the parolee makes a timely and colorable claim that:

(a) He/she has not committed the alleged violation;

(b) There are substantial complex mitigating circumstances which make revocation inappropriate even if violation is admitted or a matter of record; or

(c) The parolee appears incapable of speaking effectively in his/her behalf.

(2) Representation by an attorney at the parolee's own expense;

(3) Upon completion of the violation hearing, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. In those instances where counsel is refused, the grounds for refusal shall be succinctly stated in the record. Where payment is approved, such payment shall not exceed \$150 per case.

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 255, DIVISION 75 - BOARD OF PAROLE**

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Board Subpoenas; Witnesses or Documents**

**255-75-036** (1) Upon request of any party to the hearing, the Parole Board or a designated representative shall, or the Parole Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. The parolee will make his/her own arrangements for presenting witnesses. In addition, the Board may subpoena documents when relevant.

(2) Witnesses appearing under subpoena, other than the parties, state officers or employees, shall be reimbursed fees and mileage by the Parole Board as prescribed by law, provided the hearings officer certifies the testimony of the witness was relevant and material to the hearing.

(3) The parolee may present witnesses who may have relevant information and has the right of confrontation of persons or witnesses who have presented adverse information against the parolee. Confrontation of witnesses by the parolee may be denied if the hearings officer finds that confrontation would subject the witness to risk of harm if his/her identity was disclosed.

(4) If confrontation of witnesses by the parolee is denied, the hearings officer shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Compelling Appearance of Witnesses: If Subpoena Requested; Board Motion; Failure to Obey**

**255-75-040** The Board, or its designated representative or party requesting a subpoena may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Probable Cause; Effect of Preliminary Hearing; Definition of Term; Deferral of Revocation Hearing**

**255-75-042** (1) Evidence received by and/or the order of the court at the preliminary hearing may be used by the Board to establish that probable cause exists to believe that a violation of a condition of parole has occurred; and further, that should the parolee waive right to a preliminary hearing, such waiver shall also constitute a waiver of hearing by the Board to determine whether there is a probable cause to believe that a violation of one or more of the conditions of parole has occurred.

(2) "Probable Cause" shall be interpreted to mean a standard of proof lower than a preponderance (e.g., a reasonable belief that the violation did occur as opposed to proof by greater weight of the evidence). Such findings shall be used to support the Board decision to suspend and detain a parolee charged with the commission of a new crime. The Board may then defer completion of a parole violation hearing until trial has been completed. In no case, however, shall a deferral following a finding of probable cause extend for a period greater than ninety (90) days from the date of the preliminary hearing or waiver.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Evidence**

**255-75-045** The following evidence may be received at a parole violation hearing:

(1) Oral testimony under oath;

(2) Affidavits or other sworn statements;

(3) Evidence determined to be material, relevant, and reliable, regardless of its nature, including:

(a) Letters;

(b) Documents;

(c) Reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole officers, doctors, psychologists, attorneys);

(d) Uncertified copies of letters, documents, or reports shall be admissible in a parole violation if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable.

(4) Evidence of criminal activity even when charges have been dismissed, not brought, or the parolee has been acquitted at trial.

(5) Hearsay evidence shall be admissible, however, cannot alone form the evidentiary basis for revocation if objection is raised. This provision shall not apply to certain recognized exceptions to the hearsay rule. For Board purposes, Federal rules 803, 804, and 805 shall be utilized in determining exceptions to the hearsay rule.

(6) Upon request of any party to the hearing, the Parole Board or its designated representative, may issue a subpoena upon a proper showing of relevant and reasonable scope of the documentary/physical evidence being sought. The parolee may make his/her own arrangement for presenting evidence.

(7) The hearings officer may exclude documents/physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.

(8) The hearings officer may classify documents/physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.

(9) Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.

(10) When a witness is unavailable, his/her statements may be received in the form of documentary evidence when

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 255, DIVISION 75 - BOARD OF PAROLE**

the Hearings Officer determines at an in-camera hearing that good cause for non-disclosure exists and supporting evidence establishes the reliability of the absent witness' statement.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Postponement**

**255-75-046** (1) A hearing may be postponed by the hearings officer for good cause and for a reasonable period of time.

(2) "Good cause" includes, but is not limited to:

- (a) Preparation of defense;
- (b) Illness or unavailability of the parolee or other persons;
- (c) Gathering of additional evidence; or
- (d) Avoiding interference with an ongoing police investigation or pending prosecution.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Procedure for Receiving Evidence if Good Cause Exists Not to Require Confrontation or Disclosure of an Informant's Identity**

**255-75-050** [2PB 1-1979, f. & ef. 2-1-79; Suspended by 2PB 1-1984(Temp), f. & ef. 11-19-84; Repealed by 2PB 1-1985, f. & ef. 2-28-85]

**Reopening Hearings for New Information: Criteria; Procedure**

**255-75-055** (1) After completion of a parole violation hearing and before a final decision, the Board may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.

(2) The parolee shall be given notice of the decision to reopen the hearing and the new information to be considered. The hearing shall conform to the procedures of this Division.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1985, f. & ef. 2-28-85

**Hearings Record**

**255-75-056** (1) The hearings record shall include:

- (a) Hearings Report Summary; including tape of hearing;
- (b) The tape recording will be sent to and retained by the Parole Board for two (2) years.
- (2) Written statement of alleged violations;
- (3) Supporting materials;
- (4) Notice of Rights;

(5) Order of parole.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Record of Parole Revocation Hearing**

**255-75-060** [2PB 1-1979, f. & ef. 2-1-79; Suspended by 2PB 1-1984(Temp), f. & ef. 11-19-84; Repealed by 2PB 1-1985, f. & ef. 2-28-85]

**Ten-Day Waiting Period for Parolee's Arguments and Exceptions**

**255-75-065** Within a reasonable time after the hearing, the Hearings Officer's report shall be provided to the parolee. Unless the right is waived, the parolee shall have 10 days from the date the report is mailed to make written exceptions and arguments to the report for the Board's consideration.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Final Action by the Board: Quorum to Decide/Final Order/Notice of Decision**

**255-75-070** (1) The Board shall consider the record, Hearings Officer's report, and exceptions and arguments. A quorum of the Board shall enter a decision, and the individual votes of the Board members in accordance with Exhibit K. The Board shall adopt the findings. The Board may adopt or reject the recommendations of the Hearings Officer. When the recommendations are rejected the Board shall state the reasons for rejections.

(2) A copy of the final order shall be forwarded to the parolee with notice of the right to administrative and judicial review.

[ED. NOTE: The Exhibit referred to in the above rule are not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Parolees Convicted of a New Crime in Another Jurisdiction: Return; Jurisdictional Reinstatement**

**255-75-075** If a parolee has violated his/her parole as a result of a conviction of a new crime in another jurisdiction and has been sentenced to a term in prison, the Board may:

- (1) Suspend parole and order the parolee returned to Oregon for a parole revocation hearing after serving the new sentence; or

*Revocation of  
opt. see ORS  
421.120(2)*

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 255, DIVISION 75 - BOARD OF PAROLE**

(2) Reinstate parole to the prison sentence in the other jurisdiction in order to consolidate jurisdiction over the parolee and allow the Oregon sentence to run concurrently. Reinstatement under these circumstances is not a recommendation for parole release.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1979, f. & ef. 2-1-79

**Designation of Parole Failure**

**255-75-076** If the Board finds that a parolee has violated the conditions of parole but chooses to reinstate or continue parole, the reinstatement or continuation may be designated a parole failure.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Parole Violator With New Prison Commitment; Action Required**

**255-75-078** Parole violators returned with a new prison commitment shall be given a prison term hearing in accordance with Division 30 of these rules.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Reinstatement Based on Time Served: Necessary Findings by Board; Effect on History/Risk Score**

**255-75-080** (1) If the Board finds that a parolee has committed a violation of parole conditions which is sufficiently serious to require revocation of parole and the time the parolee has spent in custody pending final action on the parole revocation hearing is an adequate punishment for the violation, the Board may reinstate parole.

(2) Reinstatement of parole under this rule shall be counted as a parole failure in computing a criminal history risk assessment score under Rule 255-35-013.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Authority of Revocation Panel to Set New Parole Release Date for Parole Violators**

**255-75-082** [2PB 7-1981(Temp), f. & ef. 11-4-81 thru 5-2-82; Suspended by 2PB 1-1984(Temp), f. & ef. 11-19-84; Repealed by 2PB 1-1985, f. & ef. 2-28-85]

**Parole Violators With No New Commitment/Action Required**

**255-75-085** (1) Parole violators returned with no new prison commitment shall receive a hearing within 90 days of the date of return to Corrections Division custody.

(2) The hearing shall follow the procedures of a prison term hearing as provided in Division 30 of these rules.

(3) At the future dis  
(a) Set a new par  
guidelines in rule 255-75-070 and choose not to give credit for statutory good time earned until suspension of parole; or  
(b) Deny further parole consideration, according to the guidelines in rule 255-75-090, and may return all or part of the statutory good time to which the prisoner is entitled.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Guidelines for Reparole When No New Prison Commitment is Present**

**255-75-090** Parole violators returned with no new prison commitment shall be given an additional prison term within the following guidelines unless the Board finds aggravation/mitigation or denies parole:

(1) Violations not involving a finding of new criminal activity, shall result in an additional term of four to eight months.

(2) Violations involving finding of new criminal activity shall result in an additional term of eight to 12 months.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Variation From Guidelines For Aggravation/Mitigation Permitted**

**255-75-095** (1) Variation from the terms set forth in rule 255-75-090(a), (b), is permitted if the Board finds aggravation or mitigation as shown in either Exhibit E or Exhibit G.

(2) Variations from the terms set forth in rule 255-75-090(a), (b) shall be those established in Division 35 of these rules and shown in Exhibit D.

[ED. NOTE: The Exhibits referred to in the above rule are not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

**Denial of Reparole Consideration**

**255-75-096** (1) The Board may deny reparole consideration and require the parole violator to serve to the statutory good time date. This action requires the affirmative vote of at least four voting members.

(2) In cases where setting a parole violator within the guidelines set forth in rule 255-75-090 would require the parole violator to serve to the end of the sentence, four votes are not required.

Stat. Auth.: ORS Ch. 144  
Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

DIVISION 80

ADMINISTRATIVE APPEAL

Method of Appeal

255-80-005 (1) Administrative appeal may be filed by a prisoner or a Board member. If the chairperson of the Board determines the appeal is consistent with the Board's criteria as defined in rule 255-80-010, the matter will be resolved by an Administrative Hearing or by an Administrative Review. Administrative Reviews will be conducted without a hearing. In either instance, the prisoner will be informed in writing of the Board's decision.

(2) Application for administrative appeal must be made within forty-five (45) days after final action by the Board.

(3) When the appeal is denied the chairperson shall inform the prisoner in writing of the reasons for denial and the prior decision remains in effect.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-979, f. & ef. 2-1-79; 2PB 11-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 17-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Criteria for Appeal

255-80-010 The criteria for meritorious appeal are:

(1) The Board action is not supported by the written findings, or the written findings are inaccurate; or

(2) Pertinent information was available at the time of the original hearing which, through no fault of the prisoner, was not considered; or

(3) The action of the Board is inconsistent with its rules or policies or is contrary to law; and

(4) The matters raised on appeal may have an effect on the original decision.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 90 --  
BOARD OF PAROLE

DIVISION 90

DISCHARGE

Definitions

255-90-001 [2PB 5-1981(Temp), f. & ef. 11-4-81;

2PB 1-1982, f. & ef. 5-19-82;

Repealed by 2PB 18-1985,

f. & ef. 5-31-85]

Establishing Conditional Discharge Date; Effect of Restitution Obligation

255-90-002 (1) The Board shall establish a conditional discharge date. It shall also set a period of active supervised parole as shown in the conditional discharge Matrix, Exhibit I. The Board may order an extended supervision period after a hearing if it finds that such an extension is mandated. That extended supervision shall in no case exceed thirty-six (36) months.

(2) Notwithstanding section (1) of this rule, active supervision, as shown in the conditional discharge Matrix shall extend until the maximum expiration of the prison sentence if restitution remains unpaid.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Period of Time to Serve on Supervised Parole

255-90-003 (1) The guidelines set forth in Exhibit I shall govern the establishment of discharge dates. The date may be set at any hearing, personal review, or postponement action and shall be written on the Order of Parole. For discharge to be effective, the parolee must display acceptable parole performance during the term of active parole supervision.

(2) During the pendency of any parole violation proceeding, the running of the parole period is stayed and the Board shall retain jurisdiction over the parolee until the proceedings are resolved.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Procedure: Approving or Denying Discharge

255-90-005 When discharge is granted by the Board prior to the maximum expiration date of the paroled prisoner's sentence, the discharge shall not be considered effective until the certificate of discharge is received by the paroled prisoner.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

extension of Parole Discharge Date; Procedure: Approving or Denying Discharge; Further Proceedings

255-90-010 (1) Prior to the discharge date on the Order of Parole, the supervising parole officer shall send to the Board a closing summary. This summary shall include the parolee's performance and shall recommend one of two courses:

(a) That the parolee be discharged and certificate of discharge issued;

(b) That the discharge not be granted with supporting reasons in the recommendation;

(c) When discharge is not granted, a hearing shall be conducted to determine if the recommendation for extension shall be executed.

(d) The Board shall notify the parolee of the new discharge date if mandated with stated reasons for the extension or reasons or notify the parolee in writing that he has been discharged.

(2) Notwithstanding section (1) of this rule, the supervising officer may submit a recommendation with written reasons for early conditional discharge at any time after six months supervised parole.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Discharge

255-90-015 Nothing contained in this rule shall be interpreted to preclude more than one extension of a discharge date by the Board. However, no extension of parole shall exceed the maximum term of sentence imposed by the court.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 95 --  
BOARD OF PAROLE

DIVISION 95

PRESENTENCE INVESTIGATION

Uniform Presentence Report

255-95-005 (1) The Advisory Commission on Prison Terms and Parole Standards shall propose to the Board and the Board shall adopt the format for preparation of the presentence report.

(2) Presentence reports shall be prepared according to the format outlined in Exhibit M.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82;  
2PB 19-1985, f. & ef. 5-31-85

EXHIBIT A  
CRIME SEVERITY RATINGS

<u>ORS</u>	<u>Crime</u>	<u>Felony Class</u>	<u>Rating</u>
163.535	Abandonment Of Child	C	2
475.993	Act By Registrant	C	1
163.105	Aggravated Murder	U	7
164.325	Arson I	A	6,5
164.315	Arson II	C	2
163.185	Assault I	A	6,5
163.175	Assault II	B	4
163.165	Assault III	C	2
161.405	Attempt - Classified one level below crime attempted. (e.g., Attempted Burglary I is a B Felony.)		
163.515	Bigamy	C	1
162.015	Bribe Giving	B	3
162.215	Bribe Receiving	B	3
162.275	Bribe Receiving By A Witness	C	2
162.265	Bribing A Witness	C	2
164.225	Burglary I	A	5,4,3
164.215	Burglary II	C	3,2,1
475.995	CAID(Minors)	A	4,3,2
475.992(i)	CAID(Others)	B	3,2,1
166.220	Carrying Weapon With Intent To Use	C	2
163.275	Coercion	C	4,3
167.017	Compelling Prostitution	B	4
161.450	Conspiracy - Classified at same level as conspired crime, except murder or treason which are reduced to a felony. (e.g., Conspiracy to Commit Burglary I is an A Felony.)		
484.740	Court Order (Habitual Traffic Offender)	C	1
163.005	Criminal Homicide	A	2
164.365	Criminal Mischief I	C	1
163.205	Criminal Mistreatment I	C	2
163.555	Criminal Nonsupport	C	1
165.022	Criminal Possession Forged Instrument I	C	1
165.032	Criminal Possession Forgery Device	C	1
164.140	Criminal Possession Rented/Leased Property	C	3,2,1
163.145	Criminally Negligent Homicide	C	2
163.257	Custodial Interference I	B	3
163.245	Custodial Interference II	C	1
475.992(2)	Delivery Of Marijuana For Payment	B	3,2,1
475.995(5)	Delivery of Marijuana to Minor	A	1
487.560	Driving While Suspended or Revoked	C	1
164.885	Endangering Aircraft	C	2
162.165	Escape I	B	5
162.155	Escape II	C	2,1
166.270	Ex Convict In Possession	C	2
162.205	Failure to Appear I	C	2
165.013	Forgery I	C	3,2,1

59.055; 59.135;			
59.730; 59.740;			
59.750; 59.760;	Fraud Involving Securities	C	3,2,1
59.770; 59.780;			
59.790; 59.800			
165.055(3b)	Fraudulent Use of Credit Card	C	1
162.325	Hindering Prosecution	C	1
471.990	Illegal Manufacture of Mash; Operating Distillery Without a License	C	1
166.410	Illegal Manufacture, Importation, Sale Gift, Loan or Possession of Firearms	C	1
163.525	Incest	C	1
483.602(4a)	Injury/Death (Hit&Run)	C	1
166.165	Intimidation I	C	2
163.235	Kidnapping I	A	6
163.225	Kidnapping II	B	4
163.118	Manslaughter I	A	6
163.125	Manslaughter II	B	5,4,3
475.992(1)	Manufacture Or Delivery Of Controlled Substance	A,B,C	4,3,2,1
481.990(2-5 8,9)	Motor Vehicle Title Offenses Operating Vehicle While Under Influence	C	1
163.115	Murder	U	7
165.065(3b)	Negotiating A Bad Check	C	3,2,1
166.450	Obliteration of ID Marks (Firearm)	C	1
167.278	Obtaining Drugs Unlawfully	B(O.C.)	2
162.065	Perjury	C	2
496.992(3)	Poaching	C	2
165.070	Possessing Fraudulent Communications Device	C	3,2,1
475.992(4)	Possession Of A Controlled Substance	B,C	2, 1
167.137	Possession of Gambling Records I	C	1
166.275	Possession of Weapon By Inmate of Penal Institution	A	5
167.127	Promoting Gambling I	C	1
163.485	Promoting Obscene Sexual Performance (Child)	C	2
167.012	Promoting Prostitution	C	2
166.720	Racketeering	A	5,4
163.375	Rape I	A	6,5
163.365	Rape II	B	4,3
163.355	Rape III	C	2
166.015	Riot	C	2
164.415	Robbery I	A	6
164.405	Robbery II	B	4
164.395	Robbery III	C	2
167.062(4)	Sadomasochistic Abuse or Sexual Conduct In Live Show	C	1
163.425	Sexual Abuse I	C	3
163.411	Sexual Penetration Foreign Object I	A	6,5
163.408	Sexual Penetration Foreign Object II	B	4
163.405	Sodomy I	A	6,5

163.395	Sodomy II	B	4
163.385	Sodomy III	C	2
161.435	Solicitation - Classified one level below crime solicited.		
165.090	Sports Bribe Receiving	C	2
165.085	Sports Bribery	C	2
162.185	Supplying Contraband	C	4,3,2,1
167.212	Tampering With Drug Records	C	1
162.285	Tampering With a Witness	C	2
164.085	Theft By Deception	C	3,2,1
164.075	Theft By Extortion	B	4,3
164.095	Theft By Receiving	C	2
164.055	Theft I	C	3,2,1
164.125(4b)	Theft Of Services	C	3,2,1
164.065	Theft, Lost/Mislaid Property	C	1
166.005	Treason	U	7
164.135	Unauthorized Use of Vehicle	C	2,1
475.992(3)	Unlawful Creation or Delivery of a Counterfeit Substance	A,B,C	3,2,1
475.995	Unlawful Delivery Of Controlled Substance to A Minor	A,B	4,3,2
166.660	Unlawful Paramilitary Activity	C	1
166.250	Unlawful Possession of Weapons	C	2
163.483	Using Child In Obscene Sexual Performance	C	3
411.630; 411.640			
411.690, 411.840	Welfare/Food Stamp Fraud	C	3,2,1

EXHIBIT A

Part II

Arson I            164.325

Subcategory 1 - Rating of 6:

Knew or should have known premises were occupied at time of act or injury.

Subcategory 2 - Rating of 5:

All other cases of Arson I.

Assault I            163.185

Subcategory 1 - Rating of 6:

Cases of Assault I in which there is intentional cause of serious physical injury to another by means of a deadly or dangerous weapon.

Subcategory 2 - Rating of 5:

Cases of Assault I in which the victim(s) provoke the crime to a substantial degree or other evidence that misconduct by the victim(s) contributed substantially to the criminal episode.

Burglary I            164.225

Subcategory 1 - Rating of 5:

Entry into a dwelling or non-dwelling, where defendant used or threatened to use, by word or gesture, a dangerous weapon or caused/threatened serious physical injury. Entry into a dwelling or non-dwelling in which goods taken are valued at \$5000 or over.

Subcategory 2 - Rating of 4:

Entry into a dwelling or non-dwelling in which goods taken exceeds \$1000 but is less than \$5000.

Subcategory 3 - Rating of 3:

All other entries into dwelling or non-dwelling and the value of goods taken is less than \$1000.

Burglary II      164.215

Subcategory 1 - Rating of 3:

Theft or destruction over \$5000 in property.

Subcategory 2 - Rating of 2:

Theft or destruction of between \$1000-5000.

Subcategory 3 - Rating of 1:

Theft of less than \$1000.

CAID (Minors)      475.995

Subcategory 1 - Rating of 4:

Furnishing heroin or opiate derivatives.

Subcategory 2 - Rating of 3:

Furnishing any drug except those fitting Sub 3.

Subcategory 3 - Rating of 2:

Furnishing less than 1 ounce of marijuana.

CAID (Others)      475.992(1)

Subcategory 1 - Rating of 3:

Manufacture, cultivation, or sale for profit, or possession with intent to sell for profit of any heroin or opiate derivatives.

Subcategory 2 - Rating of 2:

Manufacture, cultivation, or sale for profit, or possession with intent to sell for profit, of any other drug.

Subcategory 3 - Rating of 1:

Manufacture for own use or possession for own use.

Coercion      163.275

Subcategory 1 - Rating of 4:

Compelling another to act through threat of serious physical harm or property damage; blackmail.

Subcategory 2 - Rating of 3:

All others.

Criminal Possession Rented/  
Leased Property 164.140

Breakdown is the same as for Theft I.

Delivery of Marijuana  
For Payment 475.992(2)

Breakdown is the same as for Manufacture or Delivery of Controlled Substance.

Escape II 162.155

Subcategory 1 - Rating of 2:

Use or threat to use physical force escaping from custody; or, having been convicted or found guilty of a felony, escapes from custody imposed as a result thereof; or, escapes from a correctional facility or, while otherwise under the jurisdiction of the Psychiatric Security Review Board, departs from state without authorization of Board.

Subcategory 2 - Rating of 1:

All other cases.

Forgery I 165.013

Subcategory 1 - Rating of 3:

Loss or receiving of over \$5000.

Subcategory 2 - Rating of 2:

Loss or receiving of \$1000 to \$5000.

Subcategory 1 - Rating of 1:

Loss or receiving of under \$1000.

Fraud Involving  
Securities 59.055; 59.135; 59.730; 59.740;  
59.750; 59.760; 59.770; 59.780;  
59.790; 59.800

Breakdown is the same as for Theft I.

Manslaughter II 163.125

Subcategory 1 - Rating of 5:

Cases where death of a victim, usually a child, results from prolonged abuse; failure to provide for victim's welfare resulting in death; medical treatment withheld to conceal physical signs of abuse.

Subcategory 2 - Rating of 4:

Causes another to commit suicide or aids, cases where death of victim involves use of a weapon or follows an assault.

Subcategory 3 - Rating of 3:

Cases where death is by negligent use of a vehicle; all other cases.

Manufacture or Delivery  
of Controlled  
Substance

475.992(1)

Subcategory 1 - Rating of 4:

Manufacture or delivery of heroin or opiate derivatives for compensation of of \$2000 or more.

Subcategory 2 - Rating of 3:

Manufacture or delivery of heroin or opiate derivatives without compensation or for compensation of less than \$2000; Manufacture or delivery of cocaine for compensation of \$2000 or more and other drugs for compensation of \$1000 or more.

Subcategory 3 - Rating of 2:

Manufacture or delivery of cocaine for compensation of less than \$2000 and other drugs for compensation of less than \$1000.

Subcategory 4 - Rating of 1:

Manufacture exclusively for own use; delivery without compensation, except heroin or opiate derivatives.

Murder 163.115

Subcategory 1 - Rating of 7:

Stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation.

Subcategory 2 - Rating of 7:

All other cases of murder.

Possessing Fraudulent  
Communications  
Device            165.070

Breakdown is the same as for Theft I.

Possession of Controlled  
Substance            475.992(4)

Subcategory 1 - Rating of 2:

Possession of large amounts of schedule 1 or 2 drugs,  
presumption of possession with intent to sell.

Subcategory 2 - Rating of 1:

Possession of small amounts of schedule 1 or 2 drugs,  
rebuttable presumption of possession for own use.

Racketeering            166.720

Subcategory 1 - Rating of 5:

The principle party involved in violation of the Racketeering  
statute. Involvement is that of planning, directing or  
participating in the scheme or schemes resulting in direct  
profit or gain.

Subcategory 2 - Rating of 4:

The subordinate party involved in violation of the  
Racketeering statute. Involvement is limited to acting as an  
agent or employe of the principle. There is no involvement in  
planning, directing or participating in the scheme or schemes  
in violation of this statute.

Rape I            163.375

Subcategory 1 - Rating of 6:

Stranger to stranger; breaking and entering; threat to use or  
use of weapon; actual or threat of serious bodily or emotional  
harm; intercourse with female or male under 12.

Subcategory 2 - Rating of 5:

All other cases.

Rape II                    163.365

Subcategory 1 - Rating of 4:

Cases in which the female is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness; or the female is under 14 years of age.

Subcategory 2 - Rating of 3:

All other cases.

Sexual Penetration with  
Foreign Object I            163.411

Subcategory 1 - Rating of 6:

Sexual Penetration with Foreign Object I is broken down in the same manner as Rape I.

Subcategory 2 - Rating of 5:

All other cases.

Sodomy I                    163.405

Subcategory 1 - Rating of 6:

Sodomy I is broken down in the same manner as Rape I.

Subcategory 2 - Rating of 5:

All other cases.

Supplying  
Contraband                    162.185

Subcategory 1 - Rating of 4:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any firearm; knowingly introduces any firearm into a correctional facility, juvenile facility, or state hospital.

Subcategory 2 - Rating of 3:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses dangerous weapon; knowingly introduces any dangerous weapon into a correctional facility, juvenile facility or state hospital.

Subcategory 3 - Rating of 2:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any Schedule 1 controlled substance except marijuana; knowingly introduces any Schedule 1 controlled substance into a correctional facility, juvenile facility or state hospital.

Subcategory 4 - Rating of 1:

All other cases.

Theft by  
Deception

164.085

Breakdown is the same as for Theft I.

Theft by  
Extortion

164.075

Subcategory 1 - Rating of 4:

Threat of serious bodily harm or death.

Subcategory 2 - Rating of 3:

All others.

Theft I

164.005

Subcategory 1 - Rating of 3:

Theft or receiving of over \$5000.

Subcategory 2 - Rating of 2:

Theft or receiving of \$1000 to \$5000.  
Theft of a livestock animal.  
Theft of a firearm or explosive.  
Theft during riot or catastrophe.

Subcategory 3 - Rating of 1:

Thefts under \$1000.

Theft of  
Services

164.125

Breakdown is the same as for Theft I.

Unauthorized Use  
Motor Vehicle 164.135

Subcategory 1 - Rating of 2:

Loss, destruction or severe damage to vehicle or property; or injury to others.

Subcategory 2 - Rating of 1:

All others.

Unlawful Creation or  
Delivery of Counterfeit  
Substance 475.992(3)

Breakdown is the same as for Manufacture or Delivery of Controlled Substance.

Unlawful Delivery of  
Controlled Substance  
to A Minor 475.995

Subcategory 1 - Rating of 4:

Any delivery of heroin; delivery for compensation of any other drug, except those fitting Sub 3.

Subcategory 2 - Rating of 3:

All other except those fitting Sub 3.

Subcategory 3 - Rating of 2:

Any delivery of less than 1 ounce of marijuana.

Welfare/Food 411.639; 411.640; 411.690  
Stamp Fraud 411.840

Breakdown is the same as for Theft I.

5/31/85

EXHIBIT B - PART I

CRIMINAL HISTORY/RISK ASSESSMENT UNDER RULE 255-35-015

(A) No prior felony convictions as an adult or juvenile:	3	
One prior felony conviction:	2	
Two or three prior felony convictions:	1	
Four or more prior felony convictions:	0	_____

(B) No prior felony or misdemeanor incarcerations, (i.e., executed sentences of 90 days or more), as an adult or juvenile:	2	
One or two prior incarcerations:	1	
Three or more prior incarcerations:	0	_____

(C) Verified period of 3 years conviction free in the community prior to the present commitment:	1	
Otherwise:	0	_____

(D) Age at commencement of behavior leading to this incarceration:	DOB:	_____
26 or older and at least one point received in Items A, B, or C:	2	
26 or older and no points received in A, B, or C:	1	
21 to under 26 and at least one point received in A, B, or C:	1	
21 to under 26 and no points received in A, B, or C:	0	
Under 21:	0	_____

(E) Present commitment does not include parole, probation, failure to appear, release agreement, escape or custody violation:	2	
Present commitment involves probation, release agreement, or failure to appear violation:	1	
Present commitment involves parole, escape or custody violation:	0	_____

(F) Has no admitted or documented substance abuse problem within a 3 year period in the community immediately preceding the commission of the crime of conviction:	1	
Otherwise:	0	_____

TOTAL HISTORY/RISK ASSESSMENT SCORE: \_\_\_\_\_

EXHIBIT B - PART II

Coding Instructions: History/Risk Score

The instructions address the application of the history/risk scoring instrument in most circumstances. Invariably, situations will arise where judgment will have to be exercised. As a general rule, never delete a point when doubt exists, note such doubtful items.

---

(A) No prior felony convictions as an adult or juvenile:	3
One prior felony conviction:	2
Two or three prior felony conviction:	1
Four or more prior felony conviction:	0

---

In general, the purpose of this item is to consider previous verified instances of criminal conduct.

1. Adult Convictions. Count as a prior conviction all adult convictions for criminal acts classed as felonies. Count convictions in a foreign country for criminal behavior that would be classed as a felony in Oregon.
2. Juvenile Convictions. Count adjudications transpiring prior to the 16th birthday if incarceration results. Count adjudications for a juvenile who has passed his 16th birthday for offense behaviors that would have been felonies if committed by an adult. Formal probation and wardship are considered to constitute a conviction providing the foregoing criteria are met. Do not count any juvenile charge which results in informal probation.
3. Effective Age. Count as a conviction, a finding by a court that a juvenile who has passed his 16th birthday, who while either on probation or parole for a crime classified as a felony, committed a new felony, even though the probation/parole was continued.
4. Military Convictions. Count prior convictions for behavior which would constitute a felony if committed in Oregon.
5. Convictions Pardoned. Count felony offenses which have been pardoned on grounds other than innocence. Do not count convictions or adjudications which were set aside or pardoned on the grounds of innocence. Do not count any convictions which have been expunged pursuant to court order.
6. Convictions Reversed or Vacated on Constitutional Grounds. Do not count felony convictions reversed or vacated on constitutional grounds (e.g., that an indigent defendant was deprived of his/her right to counsel.) However, it is presumed that a conviction/adjudication is valid unless the evidence is clear that it is not. If a prisoner challenges such conviction, the prisoner should be advised to petition for a reversal of such conviction in the court in which the prisoner was originally tried, and then to provide the board with evidence of such reversal.

7. Uncounseled Convictions. Do not count felony convictions if the documents clearly show that the defendant neither had counsel nor waived counsel for a particular conviction. Count convictions where the offender chooses to represent himself. If an offender challenges counting an offense on the basis that it was uncounseled, consider the circumstances prior to granting the relief. In weighting the evidence, recent convictions and serious convictions increase the burden on the offender for producing criteria to overcome the presumption that the crime was counseled. If the conviction record is not clear and several years have elapsed, the conviction would be more susceptible to challenge that it was uncounseled.
8. Diversion. Do not count convictions resulting in diversion from the judicial process without a specific finding of guilt (e.g., deferred prosecution, probation without plea).
9. Convictions Now Classed as Misdemeaners. Count as a conviction, offenses which were previously felonies but are now only misdemeaners if the offense occurred at a time when they were sanctioned as a felony.
10. Present Conviction. Do not count the present offense or offenses as prior convictions.
11. Old Prior Record. Do not count prior felony convictions or commitments under item A or B, if the offender has maintained a conviction free record of ten years in the community immediately prior to the current offense behavior (including time on probation or parole). The ten (10) year period is counted between the date of the last conviction countable under Item A or release from the last commitment countable under Item B (whichever comes last) and the date of commencement of the current offense behavior. Notwithstanding the above, count any homicide or conviction categorized as a 6 even if it is over ten (10) years old and the offender has been crime free. Note: This does not preclude consideration of earlier behavior (e.g., repetition of particularly serious or assaultive conduct) as an aggravating factor. Similarly, a substantial crime free period in the community, not amounting to ten (10) years, may be considered as a mitigating factor.
12. Intervening Probation. When any new felony conviction occurs while on felony probation, and the new conviction is the basis for the current commitment, the original conviction leading to the probation shall constitute a prior conviction. When the current commitment is the result of a probation revocation for non-criminal behavior, the original conviction leading to the probation shall not constitute a prior conviction; however, all felony convictions incurred since the inception of the original probation shall constitute countable prior convictions. Notwithstanding 10 above, it does not matter that the probation also results in the current incarceration.
13. Merged Convictions. Judicially merged convictions at the time of sentence will be counted as one conviction. However, the offense that was merged may be considered as aggravation.

#11  
for Scott  
and imprisonment  
misc. over the  
10 years.

14. Documentation. Document the foregoing through official criminal justice system instruments (e.g., court orders, presentence investigation, police and parole/probation officer reports, computerized criminal histories, and other criminal justice systems records). Admissions shall also constitute adequate documentation.

---

(B) No prior felony or misdemeanor related incarcerations (i.e. executed sentences of 90 days or more) as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0

---

(In general, this serves to weight the severity of the prior convictions counted under Item A and documents more serious criminal episodes which have occurred).

1. Incarcerations and Facilities that Count as Confinement. Count as an incarceration all sentences of ninety (90) days or more which were executed following conviction for a felony or misdemeanor offense prior to the present commitment. An offender need not serve 90 days or more for a sentence to be executed; an offender need only serve a portion thereof, the deciding criteria is whether the confinement actually was begun. Count as incarceration confinement to a facility if the movement of the person is restricted through social passes and furloughs; the facility need not be of a highly secure nature.
2. Unbroken Incarceration. If an additional prison sentence is imposed for behavior occurring prior to the present incarceration, do not count the original commitment as a prior incarceration. An incarceration is considered to be unbroken if there is no new criminal activity while in custody or there is no voluntary absence from custody.
3. Current Commitment Counted. Count the current felony commitment as a prior incarceration if a felony conviction is received for a new crime while incarcerated and a new history/risk score is being calculated for the new conviction.
4. Incarcerated While Awaiting Trial. Do not count as an incarceration, confinement awaiting trial unless a sentence to time served was imposed.
5. Incarceration Avoided. Count as a prior felony related commitment if a sentence of more than ninety (90) days is imposed prior to the current offense but the offender avoids or delays service of the sentence (e.g., by absconding, escaping, bail pending appeal).
6. Hospital Commitments. Do not count commitments of ninety (90) days or more if the same are imposed only for psychological, psychiatric, or medical observation.

*Madison v Bd. of P.  
incarceration as  
a part of probation  
even if 90+ days  
not count for H/R  
score*

7. Technical Parole Violation. Do not count parole violation commitments if the recommitment is based on a technical violation(s).
8. Old Record. Do not count prior felony commitments over ten (10) years old if the current commitment follows ten (10) years conviction free in in the community (see #11 under Item A).

(C) Verified period of 3 years conviction free in the community prior to present commitment: 1

Otherwise: 0

1. Score 1 if the offender has no prior convictions; or if the offender was released to the community from offender's last prior commitment and is conviction free for at least three (3) years prior to the date of arrest for the offender's current commitment.
2. Score 0 if there is a conviction within the three (3) years prior to the present commitment or if the offender was confined or on escape status at the time of the current offense.
3. Convictions Counted. For this purpose, count as a conviction only such offenses which would count as a felony conviction under Oregon law under Item A.

(D) Age at commencement of behavior leading to this incarceration: DOB: \_\_\_\_\_

26 or older and at least one point received in Items A, B, or C: 2

26 or older and no points received in A, B, or C: 1

21 to under 26 and at least one point received in A, B, or C: 1

21 to under 26 and no points received in A, B, or C: 0

Under 21: 0

1. Score 2 if the offender was 26 years of age at the commencement of the current offense and at least one point was received under Items A, B or C.
2. Score 1 if the offender was 26 years of age at the commencement of the current offense and no points were received under Items A, B, or C.
3. Score 1 if the offender was 21 to under 26 and at least one point was received under Items A, B, or C.

4. Score 0 if the offender was 21 to under 26 and no points were received under Items A, B, or C.
5. Score 0 if the offender was under 21 at the commencement of the current offense.
6. Age. Use the offender's age at the time the crime was committed unless the offender was initially placed on probation, in which case the offender's age at the time of the behavior leading to revocation should be used.

---

(E) Present commitment does not include parole, probation, failure to appear, release agreement, escape, or custody violation:	2
Present commitment involves probation, release agreement or failure to appear violation:	1
Present commitment involved parole, escape or custody violation:	0

---

1. Probation Violation. Count as a probation violation if the offender was on felony probation when the misconduct occurred. It does not matter if the probation was continued or terminated. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the person was on probation.
2. Release Agreement Violation. Count as a release agreement violation if an offender committed the present offense while on release, bail or other custody reduction from any legal jurisdiction. If an offender, pursuant to being arrested for the present crime, is granted bail or release on own recognizance and subsequently fails to appear at the time and place specified by a court, a violation is considered to have occurred.
3. Failure to Appear. Count as a failure to appear violation any sentence to the Corrections Division for Failure to Appear. A probation imposed for Failure to Appear, where Failure to Appear transpired following arrest for the present crime, is counted as a Failure to Appear violation.
4. Parole Violation. Count as a parole violation misconduct occurring while on parole. It does not matter whether the parole was continued or revoked nor does it matter in what jurisdiction the parole was imposed. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the offender was on parole.
5. Escape. Count as an escape if serving a sentence for Escape. Count as an escape if offender escapes from custody following an arrest. Count escape as a trust violation even if it was not adjudicated.

6. Custody Violation. Count as a custody violation if the present crime or crimes were committed while in custody (e.g., county jail, prison, work release center, probation center, forest camp, terminal leave, temporary leave, social pass).
- 

(F) Has no admitted or documented substance abuse problem within a three year period in the community immediately preceding the commission of the crime of conviction. 1

Otherwise: 0

---

1. Documentation. Substance abuse may be documented by admission, diagnosed abuse problem by competent medical or counseling professional, participation in treatment program, preponderance of such evidence as possession, urinalysis, and needle tracks.

Substance Abuse: Use of Schedule 1, 2, and 3 drugs and alcohol in quantities and under circumstances that lead to impairment of functioning, or health, or that specifically results in harm to other people and/or loss of property.

EXHIBIT C

TIME TO BE SERVED UNDER RULE 255-35-025

(All Ranges in Categories 1 - 7 shown in months)

---

<u>CRIME SEVERITY RATING</u>	<u>CRIMINAL HISTORY/RISK ASSESSMENT SCORE</u>			
	11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
	<u>Base Range</u>			
Category 1	06-06	06-06	06-10	12-18
Category 2	06-06	06-10	10-14	16-24
Category 3	06-10	10-14	14-20	22-32
Category 4	10-16	16-22	22-30	32-44
Category 5	16-24	24-36	40-52	56-72
Category 6	30-40	44-56	60-80	90-130
Category 7				
Subcategory 2	96-120	120-156	156-192	192-240
Subcategory 1	120-168	168-228	228-288	288-Life

---

EXHIBIT E-1 - AGGRAVATING FACTORS

- A. Production or use of any weapon during the criminal episode.  
\_\_\_\_\_
- B. Threat or violence toward witness or victim.  
\_\_\_\_\_
- C. Knew or had reason to know the victims were particularly vulnerable  
(i.e., aged, handicapped, very young).  
\_\_\_\_\_
- D. Ability to make restitution or reparation and failed to do so.  
\_\_\_\_\_
- E. Violation of position of public trust or recognized professional  
ethics.  
\_\_\_\_\_
- F. Degree of property loss, personal injury or threatened personal  
injury substantially greater than characteristic for the crime.  
\_\_\_\_\_
- G. There is a single conviction for a crime involving multiple victims  
or incidents.  
\_\_\_\_\_
- H. Concurrently imposed convictions not arising out of same criminal  
episode.  
\_\_\_\_\_
- I. Verified instances of repetitive assaultive conduct.  
\_\_\_\_\_
- J. More than 3 trust violations in last 5 years as relates to Item E of  
the Matrix computation.  
\_\_\_\_\_
- K. Persistent involvement in similar criminal offenses.  
\_\_\_\_\_
- L. Repetition of behavior pattern which contributes to criminal conduct  
(e.g., return to drug or alcohol abuse).  
\_\_\_\_\_
- M. Criminal history more extensive or serious than reflected by  
History/Risk score.  
\_\_\_\_\_
- N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed  
or not prosecuted.  
\_\_\_\_\_
- O. New criminal activity while on escape or reduced custody status.  
\_\_\_\_\_
- P. Persistent criminal misconduct while under supervision.  
\_\_\_\_\_
- Q. Other. \_\_\_\_\_

Inmate: \_\_\_\_\_ Inst: \_\_\_\_\_

EXHIBIT E-2 - MITIGATING FACTORS

- A. Victim provoked crime to a substantial degree, or other evidence that misconduct by victim contributed to the criminal episode.

---
- B. Special effort on the part of the perpetrator to minimize the harm or risk.

---
- C. Peripheral involvement in the criminal episode (e.g. passive accessory).

---
- D. Sustained effort to make restitution or reparation.

---
- E. Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime.

---
- F. Evidence of withdrawal, duress, necessity or lack of sustained criminal intent.

---
- G. Evidence of reduced responsibility or lack of mental capacity (e.g., mental retardation which is insufficient to constitute a defense, but is indicative of reduced culpability).

---
- H. Ordered to pay restitution after term of imprisonment.

---
- I. Successful period of community supervision, at least 24 months.

---
- J. Effort to deal with problems associated with past conduct (e.g., successful completion of treatment abstinence from substance abuse).

---
- K. Evidence of no new criminal activity while on escape status.

---
- L. Criminal history less extensive or serious than reflected by History/Risk score.

---
- M. Consecutive sentences imposed for convictions resulting from a single criminal episode.

---
- N. Probation violation is non-criminal in nature and not indicative of ongoing criminal pattern.

---
- O. Other. \_\_\_\_\_

---

*per Bill  
2 years repara  
to the 2 years prior  
to present commitment*

Inmate: \_\_\_\_\_ Inst: \_\_\_\_\_

## EXHIBIT E-3

### AGGRAVATING/MITIGATING FACTORS

Any aggravating or mitigating circumstances which constitute a defining element of the crime or subcategory of the crime of which the prisoner was convicted or resulted in a lower history/risk score shall not justify variation from the guidelines. Additionally, such circumstances should not be the basis for more than one finding in aggravation or mitigation. The Board may find mitigation, when enhanced penalties have been imposed for multiple convictions, if it finds that the crimes are part of a "crime spree" and that the spree is not indicative of a persistent criminal orientation or proclivity.

For the purpose of this exhibit, a crime spree is a set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.

EXHIBIT F

OUTLINE FOR PAROLE ANALYSIS REPORT UNDER RULE 255-30-035(1)

SECTION I: (Minimum information required)

Identifying data

Matrix application

Present crime synopsis

Aggravating and mitigating factors

Conviction chronology and arrest record

Brief social profile

Criminal history/risk assessment

SECTION II:

Confidential data exempt from disclosure under ORS 192.500(2)(d)

SECTION III:

Attachments, including transcript, if forwarded by the sentencing judge

EXHIBIT G  
MISCONDUCT FACTORS (DIVISION 50)

<u>CATEGORY</u>	<u>AMOUNT OF TIME</u>	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
(a) Hazard to Human Life/ Health	50% of the prison term	100% of the prison term. In no instance may the extension exceed five years.
(b) Hazard to Security	25% of the prison term	50% of the prison term. In no instance may the extension exceed two years.
(c) Hazard to Property	10% of the prison term	20% of the prison term In no instance may the extension exceed one year.
(d) Third in a series of rule violations within a three-month period, while assigned to any Corrections Division program.	5% of the prison term	10% of the prison term. In no instance may the extension exceed six months.

## EXHIBIT H

### AGGRAVATION/MITIGATION IN PAROLE VIOLATION CASES

#### AGGRAVATION

Prior parole revocation.

Prior Board reprimand, revocation hearing, or like difficulty on present parole.

Less than three (3) months to first difficulty.

Repetition of type conduct associated with commitment offense or past conditions (return to drug or alcohol abuse, assaultiveness, involvement in same type of criminal activity).

#### MITIGATION

No evidence of new criminal activity.

No prior parole difficulty.

More than nine (9) months to first difficulty.

Efforts to deal with problems associated with past criminal difficulty.

Evidence of reduced responsibility or lack of mental capacity.

**EXHIBIT I**

**TIME TO BE SERVED ON PAROLE  
PRIOR TO CONDITIONAL DISCHARGE**

<b>OFFENSE SEVERITY RATING</b>	<b>CRIMINAL 11-9 Excellent</b>	<b>HISTORY/RISK 8-6 Good</b>	<b>ASSESSMENT 5-3 Fair</b>	<b>SCORE 2-0 Poor</b>
1	6 mos.	6 mos.	6 mos.	6 mos.
2	6 mos.	6 mos.	6 mos.	6 mos.
3	6 mos.	6 mos.	6 mos.	6 mos.
4	6 mos.	6 mos.	6 mos.	1 year
5	6 mos.	6 mos.	1 year	1 year
6	1 year	1 year	1 year	1 year
7	1 year	1 year	1 year	1 year

- (a) For minor technical violations in crime categories 1, 2, 3, and 4 extension may be imposed for up to an additional six (6) months supervised parole.
- (b) For minor technical violations in crime category 5, 6, and 7, extension may be imposed for up to an additional one (1) year supervised parole.
- (c) For major technical violations, extensions may be imposed for up to an additional thirty-six (36) months supervised parole.

EXHIBIT J

STANDARD/SPECIAL PAROLE CONDITIONS

STANDARD CONDITIONS:

1. I understand that this parole is granted to and accepted by me subject to all its terms and conditions and with the understanding that the Board of Parole may at any time, in case of violation of any of the terms of this parole, revoke this parole if it determines that further parole is not in my best interest or that of society. Such revocation will cause my return to the physical custody of the Corrections Division to serve the remainder of my sentence(s). Pending action by the Board of Parole, I understand that the Board may order or any representative of the Corrections Division may order and execute my arrest and detention upon being informed and having reasonable grounds to believe that I have violated any condition of my parole. I shall submit to such detention.
2. I understand that I am under the supervision of the Corrections Division and its representatives and that I must abide by their direction and counsel. I understand that as a part of this condition the following will apply:
  - a. I am not to change residence without first notifying my parole officer.
  - b. I shall make every effort to find and maintain gainful employment and lawfully support myself to the best of my ability, and not to change employment without permission of my parole officer.
3. Upon release, I shall proceed at once to my place of residence and report my arrival within 24 hours to the nearest office of Parole and Probation, Corrections Division, or according to instructions at time of release.
4. If my residence is within the State of Oregon, I shall not leave the state without first securing permission in writing from my supervising officer.
5. If my residence is outside the State of Oregon, I shall not re-enter the State of Oregon without permission in writing from the Administrator, Corrections Division.
6. I shall make a written and truthful report on the last day of each and every month to the Administrator, Corrections Division, on blanks which will be furnished, giving information required therein. It is my responsibility to see that my report is received by my supervising officer not later than the fifth day of the month following.
7. I shall not own, possess or be in control of any weapon.
8. I shall respect and obey all municipal, county, state and federal laws.
9. I understand that the Board of Parole may, in its discretion, at any time, revoke my parole if it determines that my parole is not in my best interest, or in the best interest of society.

SPECIAL CONDITIONS:

1. I shall not use or possess illegal drugs or narcotics.
2. I shall not associate with drug or narcotic users or addicts (with the exception of \_\_\_\_\_).
3. I consent to a search of my person, place of residence, or motor vehicle at any time by my parole officer without first being accorded any constitutional or statutory rights.
4. I shall become involved in a drug surveillance program at the discretion of my parole officer.
5. I shall become involved in a drug treatment program (at the discretion of my parole officer) or (by order of the Board of Parole).
6. I shall become involved in a mental health treatment program (at the discretion of my parole officer) or (by order of the Board of Parole).
7. If to an educational program, I shall remain on my intended program until completed or released by proper authorities.
8. I shall not associate with know ex-felons (with the exception of \_\_\_\_\_).
9. The consumption of intoxicants has contributed to my criminal conduct and in order to assist in my rehabilitation and protect the public, the following condition is necessary:
  - a. \_\_\_\_\_ I shall not use intoxicating beverages.
  - b. \_\_\_\_\_ I shall not use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.
  - c. \_\_\_\_\_ I will undertake and maintain an alcoholic treatment program which may include antabuse if medically approved. If so approved and if ordered by the Board of Parole, antabuse will be implemented and established prior to release.
10. I shall not have a checking account without permission of my parole officer.
11. I shall not (own) or (operate) a motor vehicle without permission of my parole officer.
12. Restitution to the victim has been made part of your parole (ORS 255.65.005). Your parole officer will establish a payment schedule and the Board will approve same. Any Tentative Discharge Date will not be effective until restitution is paid in full. Your parole officer will advise the Board, by way of special report, any time your restitution is 60 days delinquent.

13. I shall not frequent (or enter) (name of place or area).
14. I shall have no contact with the victim(s) or witness(es) in my current crimes or convictions. (This condition may be broadened to cover any individual at risk as the result of the crimes of convictions.)
15. I shall have no contact with minors (male/female) nor frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
16. I shall not operate any motor vehicle in the State of Oregon until properly licensed by the Motor Vehicle Division.

Other special conditions may be imposed that are not listed above when the Board of Parole determines that such conditions are required.

## EXHIBIT K

### VOTING REQUIREMENTS FOR PAROLE REVOCATION CASES

All Board actions require three unanimous votes. Any time a vote is recorded in disagreement, additional votes are required to make three unanimous votes.

1. Suspend and Detain (abscond, major technical, new crime, persistent misbehavior)
2. Cite to Appear at parole violation hearing
3. Withdraw Suspend and Detain Order
4. Return (absconder, new crime, no basis to continue)
5. Adopt findings of hearings officer
6. Continue
7. Defer final decision regarding disposition
8. Adopt findings of hearings officer; reject recommendations
9. Revoke
10. Reinstate
11. Reprimand
12. Modify Conditions (state reasons)
13. Extend TDD six (6) months
14. No action, report noted
15. Discharge



**CERTIFICATE AND ORDER**  
for  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

**FILED**  
OCT 31 1986  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Oregon Board of Parole (Agency) on November 3, 1986 (Date) to become effective November 3, 1986 (Date).

**FILED**  
NOV 13 1986  
BARBARA ROBERTS  
SECRETARY OF STATE

The within matter having come before the Oregon Board of Parole after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No  Yes  Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm.  or Temp.

Adopted:  
(New Rules) \_\_\_\_\_  
\_\_\_\_\_

Amended:  
(Existing Rules) 255-70-001 Exhibit J, 255-70-010  
\_\_\_\_\_

Suspended:  
(Temporary Only) \_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules) \_\_\_\_\_  
\_\_\_\_\_

as Administrative Rules of the Oregon Board of Parole (Agency).

DATED this 3<sup>rd</sup> day of November, 1986.

By: Hazel M. Hays  
(Authorized Signer)

Title: Chairperson, Oregon Board of Parole

Statutory Authority: ORS 144.270

Subject Matter: The rules are being amended to streamline parole procedures and to update the current conditions of parole.

Statement of Need Attached:  Fiscal Impact Attached:   
For Further Information Contact: April Lackey, Executive Director, Georgina News, Operations Manager Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the matter of the Amending )  
of the Rules Governing the ) STATEMENT OF JUSTIFICATION  
Conditions of parole )

The Board of Parole is temporarily amending the above named rules to reflect the current conditions of parole and to protect the status of the parolees.

- (a) Statutory Authority : ORS 144.270
- (b) Need for Rule : The rules are being temporarily amended to streamline parole procedures and to update the current conditions of parole.
- (c) Documents Relied Upon : None

11/3/86  
Date

Hazel G. Hays  
Hazel G. Hays, Chairperson  
Board of Parole

DIVISION 70

CONDITIONS OF PAROLE

Conditions of Parole

255-70-001 Conditions of parole may be imposed by the Board pursuant to OAR 255-35-016. Conditions of parole are not limited to those shown in Exhibit J.

Parolee Placement in Community Corrections Centers: Standards; Limitations

255-70-005

Guidelines on [Standard] General Condition Relating to "Best Interest" Return

255-70-010 As used in the [standard] general conditions of the Order of Parole, revocation of parole when it is "in my best interest or in the best interest of society" shall refer to the following situations:

(1) The parolee is suffering from an emotional or psychological disturbance which makes him/her substantially dangerous to self or others if left in the community and which may be indicated by threatening behavior in the form of:

(a) Some overt act showing a present capacity to carry out any statements or threats of violence; or

(b) The substantial duplication of circumstances and conduct which led to the initial incarceration.

(2) The parolee's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program).

EXHIBIT J

GENERAL/SPECIAL PAROLE CONDITIONS

Parole is ordered subject to all listed General Conditions and the designated Special Conditions. Parole may be revoked for violation of these conditions, or upon a determination that the parole is no longer in the best interest of the parolee or society.

GENERAL CONDITIONS:

1. Abide by the direction and counsel of the Corrections Division and its representatives. Answer all reasonable inquiries of the Board of Parole or the Parole Officer.
2. Not to change residence without first notifying the parole officer.
3. Upon release, proceed at once to the place of residence and report arrival within 24 hours to the nearest office of Parole and Probation, Corrections Division, or according to instructions at time of release.
4. Find and maintain gainful employment, approved schooling, or other approved programming.
5. If my residence is within the State of Oregon, I shall not leave the state without first securing permission in writing from my supervising officer.
6. If my residence is outside the State of Oregon, I shall not re-enter the State of Oregon without permission in writing from the Administrator of Corrections Division.
7. Make a written and truthful report on the last day of each and every month to the Administrator, Corrections Division, on forms which will be furnished, giving information required therein.
8. Not own, possess, or be in control of any weapon.
9. Obey all municipal, county, state, and federal laws.

SPECIAL CONDITIONS:

1. Submit person, residence, vehicle and property to search by a parole officer having reasonable grounds to believe such search will disclose evidence of parole violation.
2. Become involved in a drug surveillance program.

3. Become involved in a drug treatment program.
4. Become involved in a mental health treatment program.
5. (a) Not use intoxicating beverages.
5. (b) Not use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.
5. (c) Undertake and maintain an antabuse program, if medically approved. If approved, antabuse will be implemented prior to release.
5. (d) Undertake and maintain an alcohol treatment program.
6. Not have a checking account.
7. Restitution to the victim has been made part of your parole (ORS 144.275). Your Parole Officer will submit a payment schedule for Board approval.
8. No contact with minors (male/female) nor frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
9. Other: Special conditions may be imposed that are not listed above when the Board of Parole determines that such conditions are required.

INSTRUCTIONS:

1. In order to comply with Rule #3, I will report to:

-----  
 -----

2. I understand that a detainer has been filed against me by the:

-----

If an in-state detainer, immediately upon release I shall report to:

-----  
 -----  
 -----

If an out-of-state detainer, prior to release from the detainer, I

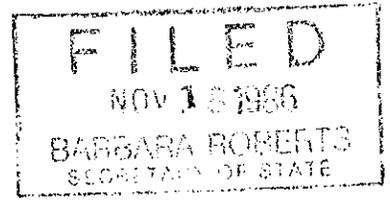
shall report in writing to the Oregon Corrections Division,  
Interstate Compact Services, 2575 Center Street, NE, Salem, OR  
97310, to arrange for my Oregon parole supervision.

2007

(

(

(



BEFORE THE  
OREGON STATE BOARD OF PAROLE

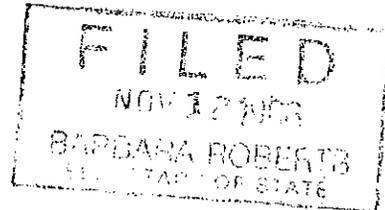
In the Matter of the Amending  
of the Rules Governing the  
Conditions of Parole )

NOTICE OF INTENT TO  
AMEND RULES

1. On or about January 9, 1987, the Parole Board intends to permanently adopt amendments to OAR 255-70-010 and Exhibit J.
2. The rule and exhibit are being temporarily amended to streamline parole procedures and to update the current conditions of parole. It amends the existing rule adopted in May 1985, under the same rule number, and the exhibit under the same exhibit letter.
3. Interested persons who wish to comment on the rule before it is permanently adopted may submit their data, views and arguments in writing. To be considered, written comments must be received by December 19, 1986, and should be addressed to Georgina Dews, Law Clerk, Board of Parole, 2575 Center Street N.E., Salem, OR 97310, phone 378-2334.
4. If ten (10) or more individual requests are received from persons, or a request is received from an association having a membership of ten (10) or more, a hearing will be held for the purpose of taking oral testimony relevant to the rule. If a hearing is held, those who requested will be notified of the date, time and place.

11/4/86  
Date

*Hazel G. Hays*  
Hazel G. Hays  
Chairperson  
Oregon State Board of Parole



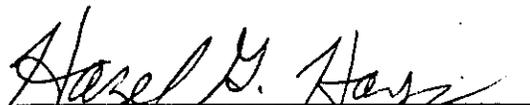
BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the matter of the Amending )  
of the Rules Governing the ) STATEMENT OF NEED  
Conditions of Parole )

The Board of Parole is permanently amending the above named rules to reflect the current conditions of parole and to protect the status of the parolees.

- (a) Statutory Authority : ORS 144.270
- (b) Need for Rule : The rules are being permanently amended to streamline parole procedures and to update the current conditions of parole.
- (c) Documents Relied Upon : None

11/18/86  
Date

  
Hazel G. Hays, Chairperson  
Board of Parole

FILED  
NOV 1 1986  
BARBARA ROBERTS  
SECRETARY OF STATE

FISCAL ANALYSIS OF RULE  
PER ORS 183.335

Conditions of Parole

<u>Effect on Revenue (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None
<u>Effect on Expenditures (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

Organizational Impact:

None

Positions:

All staff required to administer the Board of Parole's Administrative Rules have been provided by the Legislature and are contained in the present Parole Board biennium's budget.

Economic Impact:

None

Reference for Data and Methods Used RE Above

Parole Board Budget

Prepared by: Georgina R. Dews Agency: Board of Parole  
Title: Law Clerk Date: Nov. 1, 1986

DIVISION 20

CONDITIONS OF PAROLE

Conditions of Parole

255-70-001 Conditions of parole may be imposed by the Board pursuant to DAR 255-35-016. Conditions of parole are not limited to those shown in Exhibit J.

Parolee Placement in Community Corrections Centers: Standards; Limitations

255-70-005

Guidelines on [Standard] General Condition Relating to "Best Interest" Return

255-70-010 As used in the [standard] general conditions of the Order of Parole, revocation of parole when it is "in my best interest or in the best interest of society" shall refer to the following situations:

(1) The parolee is suffering from an emotional or psychological disturbance which makes him/her substantially dangerous to self or others if left in the community and which may be indicated by threatening behavior in the form of:

(a) Some overt act showing a present capacity to carry out any statements or threats of violence; or

(b) The substantial duplication of circumstances and conduct which led to the initial incarceration.

(2) The parolee's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program).

EXHIBIT J

GENERAL/SPECIAL PAROLE CONDITIONS

Parole is ordered subject to all listed General Conditions and the designated Special Conditions. Parole may be revoked for violation of these conditions, or upon a determination that the parole is no longer in the best interest of the parolee or society.

GENERAL CONDITIONS:

1. Abide by the direction and counsel of the Corrections Division and its representatives. Answer all reasonable inquiries of the Board of Parole or the Parole Officer.
2. Not to change residence without first notifying the parole officer.
3. Upon release, proceed at once to the place of residence and report arrival within 24 hours to the nearest office of Parole and Probation, Corrections Division, or according to instructions at time of release.
4. Find and maintain gainful employment, approved schooling, or other approved programming.
5. If my residence is within the State of Oregon, I shall not leave the state without first securing permission in writing from my supervising officer.
6. If my residence is outside the State of Oregon, I shall not re-enter the State of Oregon without permission in writing from the Administrator of Corrections Division.
7. Make a written and truthful report on the last day of each and every month to the Administrator, Corrections Division, on forms which will be furnished, giving information required therein.
8. Not own, possess, or be in control of any weapon.
9. Obey all municipal, county, state, and federal laws.

SPECIAL CONDITIONS:

1. Submit person, residence, vehicle and property to search by a parole officer having reasonable grounds to believe such search will disclose evidence of parole violation.
2. Become involved in a drug surveillance program.

3. Become involved in a drug treatment program.
4. Become involved in a mental health treatment program.
5. (a) Not use intoxicating beverages.
5. (b) Not use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.
5. (c) Undertake and maintain an antabuse program, if medically approved. If approved, antabuse will be implemented prior to release.
5. (d) Undertake and maintain an alcohol treatment program.
6. Not have a checking account.
7. Restitution to the victim has been made part of your parole (ORS 144.275). Your Parole Officer will submit a payment schedule for Board approval.
8. No contact with minors (male/female) nor frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
9. Other: Special conditions may be imposed that are not listed above when the Board of Parole determines that such conditions are required.

INSTRUCTIONS:

1. In order to comply with Rule #3, I will report to:

-----  
 ;  
 -----

2. I understand that a detainer has been filed against me by the:

-----

If an in-state detainer, immediately upon release I shall report to:

-----  
 -----  
 -----

If an out-of-state detainer, prior to release from the detainer, I

shall report in writing to the Oregon Corrections Division,  
Interstate Compact Services, 2575 Center Street, NE, Salem, OR  
97310, to arrange for my Oregon parole supervision.

**CERTIFICATE AND ORDER**  
for  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

**FILED**  
NOV 19 1986  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Board of Parole (Agency) on November 13, 1986 (Date) to become effective November 13, 1986 (Date).

The within matter having come before the Board of Parole (Agency) after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Notice of Intended Action Published in OAR Bulletin: No  Yes  Date: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm.  or Temp.

Adopted:  
(New Rules)

\_\_\_\_\_  
\_\_\_\_\_

Amended:  
(Existing Rules)

OAR 255-30-015, 255-30-020, 255-40-010, Exhibit D.

Suspended:  
(Temporary Only)

\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_

*exp about  
May 11B, 1986*

as Administrative Rules of the Board of Parole (Agency).

DATED this 13 day of November, 19 86.

By: Hazel D. Hayes  
(Authorized Signer)

Title: Chairperson, Board of Parole

Statutory Authority: ORS 144.025, 144.035, 144.054, 144.110, 144.120, 144.125, Chapter 144.

Subject Matter: The rules are being amended to streamline the procedures used in establishing prison terms.

Statement of Need Attached:  Fiscal Impact Attached:   
For Further Information Contact: April Lackey, Executive Director, Georgina Dews, Law Clerk Phone: 373-2334

BEFORE THE

OREGON STATE BOARD OF PAROLE

In the Matter of the Amending of )  
the Rules Governing the Number of )  
Board Members Required for a Prison )  
Term Hearing )

STATEMENT OF JUSTIFICATION

The Board of Parole is temporarily adopting amendments to the above named rule to enable the Board to speed up the process of setting prison terms.

- (a) Statutory Authority : ORS 144.025, 144.035, 144.054,  
144.110, 144.120, 144.125,  
ORS Chapter 144.
- (b) Need for Amendments : The amendments are being temporarily adopted to streamline the procedures used in establishing prison terms.
- (c) Documents Relied Upon : None

Date

November 13, 1986

Hazel G. Hays  
Hazel G. Hays, Chairperson  
Board of Parole

Panels: When a Two-Member Panel Conducts a Prison Term Hearing; When a [Full] Board is Required [; Procedures for Full Board Decision]

255-30-015 (1) Except as provided in this rule, all prison term hearings shall be heard by a panel of two voting members of the Board.

(2) All hearings held under this rule shall follow the procedures provided in OAR 255-30-020.

[(2)](3) The following cases shall be decided by the full Board (i.e., all five voting members) : [according to the procedures in rule 255-30-020:]

(a) Any cases involving a prisoner sentenced to life imprisonment; convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim; or [sentenced under ORS 161.725 and 161.735 as a dangerous offender;]

(b) Cases where the prisoner was convicted of Aggravated Murder under ORS 163.005 to 163.105.

(4) Cases shall be reviewed by at least four members of the Board pursuant to ORS 144.110 whenever:

(a) A panel recommends a decision below a judicially set minimum sentence; or

(b) A minimum sentence imposed by a judge exceeds the applicable matrix guideline range in Exhibit C plus the maximum variation from the range shown in Exhibit D.

(5) The following cases shall be decided by a majority of the Board (i.e., at least 3 members);

[(b)](a) Whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel or deny parole;

(b) The prisoner was sentenced under ORS 161.725 and 161.735 as a dangerous offender; or

[(c) Whenever a minimum sentence imposed by a judge pursuant to ORS 144.110 exceeds the applicable matrix guideline range in Exhibit C plus the maximum variation from the range shown in Exhibit D;

(d) Whenever a panel recommends a decision below a judicially set minimum sentence;]

[(e)](c) Whenever an extension of a prison term due to institutional misconduct for more than one (1) year is recommended.

Procedures for [Full] Board Decisions

255-30-020 The following procedures shall apply to cases decided [by the full Board:] pursuant to OAR 255-30-015:

(1) A hearing shall be conducted by [the] a Board with at least a quorum present when:

(a) Setting a prison term for prisoners falling under [subsection 255-30-015 (2)(a);] OAR 255-30-015(3)(a) and (b);

(b) The Board considers denying parole; or [, except when denial is because the guideline range exceeds the good time date on a sentence;]

(c) Extending a prison term, in any case, for longer than one (1) year.

[(2) Prisoners in custody in another jurisdiction may be heard by conference call or returned to Oregon for the hearing.

(3) If a Board member is not present at a hearing, he/she shall vote after reviewing the record of the hearing.]

Procedure for Personal Reviews

255-40-010 Personal Reviews shall be conducted by a panel or a [Full] Board pursuant to OAR 255-30-015.

EXHIBIT D

GUIDELINE MATRIX  
STANDARD VARIATIONS FROM THE RANGES UNDER RULE 255-35-035

CRIME CATEGORY		CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
		11-9 Excellent	8-6 Good	5-3 Fair	2-0 Poor
		STANDARD VARIATIONS			
1	(Panel)	3*	3	3	3
2.	(Panel)	3	3	3	4
3.	(Panel)	3	3	3	6
4.	(Panel)	3	3	4	6
5.	(Panel)	4	6	6	8
6.	(Panel)	5	6	10	12
7.	(Board)	36	36	36	36

\*All numbers represent standard variations in months.

- (1) The maximum variation allowed in crime categories 1 through 6 are:
  - (a) For a panel: the standard variation.
  - (b) For a panel with a concurring vote (3 concurring votes): two times the standard variation.
  - (c) For four (4) concurring votes: Three times the standard variation.
  - (d) For five (5) concurring votes after a hearing before a Board pursuant to OAR 255-30-015; four times the standard variation.
- (2) The maximum variations allowed a Board pursuant to OAR 255-30-015 for Category 7 crimes are:
  - (a) For three (3) concurring votes: the standard variation of 36 months.
  - (b) For four (4) concurring votes: two times the standard variation of 36 months (72 months).
  - (c) For five (5) concurring votes: three times the standard variation of 36 months (108 months).
- (3) The Board may deny parole pursuant to OAR 255-35-030.

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY

**FILED**  
DEC 2 1986  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Board of Parole

(Agency) on Dec. 1, 1986 to become effective Dec. 1, 1986  
(Date)

The within matter having come before the Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

\_\_\_\_\_  
\_\_\_\_\_  
LEGISLATIVE COUNSEL'S OFFICE

Amended:  
(Existing Rules)

OAR 255-30-015, 255-30-020, 255-40-010, Exhibit D. (suspend amendments)

Suspended:  
(Temporary Only)

\_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_  
\_\_\_\_\_

as Administrative Rules of the Board of Parole  
(Agency)

DATED this 1st day of December, 19 86

By: *Hasel M. Hays*  
(Authorized Signer)

Title: Chairperson

Statutory Authority: ORS 144.050, 144.025, 144.035, 144.054, 144.110, 144.120, 144.125, Chapter 144.

Subject Matter: The Board of Parole is suspending the temporary amendments adopted Nov. 13, 1986  
to the above named rules.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Amending of :  
the Rules Governing the Number of : STATEMENT OF SUSPENSION  
Board Members Required for a Prison :  
Term Hearing :

The Board of Parole is suspending the temporary amendments adopted Nov. 13, 1986 to the above named rules.

- (a) Statutory Authority : ORS 144.050, 144.025, 144.035, 144.054  
144.110, 144.120, 144.125, ORS Chapter  
144.
- (b) Need for Amendments : The amendments which were temporarily  
adopted on Nov. 13, 1986 are now rescinded.
- (c) Documents Relied Upon : None

12/1/86  
Date

Hazel G. Hays  
Hazel G. Hays, Chairperson  
Board of Parole

panels: When a Two-Member Panel Conducts a Prison Term Hearing; When Full Board is Required; Procedures for Full Board Decision

255-30-015 (1) Except as provided in this rule, all prison term hearings shall be heard by a panel of two voting members of the Board.

(2) The following cases shall be decided by the full Board (i.e., all five voting members) according to the procedures in rule 255-30-020:

(a) Any cases involving a prisoner sentenced to life imprisonment; convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim; sentenced under ORS 161.725 and 161.735 as a dangerous offender;

(b) Whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel or deny parole;

(c) Whenever a minimum sentence imposed by a judge pursuant to ORS 144.110 exceeds the applicable matrix guideline range in Exhibit C plus the maximum variation from the range shown in Exhibit D;

(d) Whenever a panel recommends a decision below a judicially set minimum sentence;

(e) Whenever an extension of a prison term due to institutional misconduct for more than one (1) year is recommended.

Procedures for Full Board Decisions

255-30-020 The following procedures shall apply to cases decided by the full Board:

(1) A hearing shall be conducted by the Board with at least a quorum present when:

(a) Setting a prison term for prisoners falling under subsection 255-30-015(2)(a);

(b) The Board considers denying parole, except when denial is because the guideline range exceeds the good time date on a sentence;

(c) Extending a prison term, in any case, for longer than one (1) year.

(2) Prisoners in custody in another jurisdiction may be heard by a conference call or returned to Oregon for the hearing.

(3) If a Board member is not present at a hearing, he/she shall vote after reviewing the record of the hearing.

Procedure for Personal Reviews

255-40-010 Personal reviews shall be conducted by a panel or a Full Board pursuant to OAR 255-30-015.

EXHIBIT D

GUIDELINE MATRIX  
STANDARD VARIATIONS FROM THE RANGES UNDER RULE 255-35-035

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9            8-6            5-3            2-0  
Excellent      Good            Fair            Poor

---

CRIME CATEGORY				
1 (Panel)	3*	3	3	3
2 (Panel)	3	3	3	4
3 (Panel)	3	3	3	6
4 (Panel)	3	3	4	6
5 (Panel)	4	6	6	8
6 (Panel)	5	6	10	12
7 (Full Board)	36	36	36	36

---

\*All numbers represent standard variations in months.

The maximum variation allowed in crime categories 1 through 6 are:

- (a) For a panel: the standard variation.
- (b) For a panel with a concurring vote (3 concurring votes): two times the standard variation.
- (c) For four (4) concurring votes: Three times the standard variation.
- (d) For five (5) concurring votes after a hearing before the Full Board; four times the standard variation.

The maximum variations allowed the full Board for category 7 crimes are:

- (a) For three (3) concurring votes: the standard variation of 36 months.
- (b) For four (4) concurring votes: two times the standard variation of 36 months (72 months).
- (c) For five (5) concurring votes: three times the standard variation of 36 months (108 months).

The Board may deny parole pursuant to OAR 255-35-030.

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

FILED  
DEC 2 1986  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Board of Parole  
(Agency) on Dec. 1, 1986  
(Date) to become effective Dec. 2, 1986  
(Date)

The within matter having come before the Board of Parole  
(Agency) after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

RECEIVED  
DEC 2 1986

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

LEGISLATIVE COUNSEL'S  
OFFICE

PERM.  or TEMP.

Adopted: (New Rules) 255-15-002, 255-15-003, 255-15-020, 255-30-013, 255-30-027, 255-30-056.

Amended: (Existing Rules) 255-15-005, 255-15-010, 255-15-015, 255-30-005, 255-30-010, 255-30-021,  
255-30-025, 255-30-035, 255-30-040, 255-30-055.

Adopted: (Temporary Only) \_\_\_\_\_

Repealed: (Existing Rules) \_\_\_\_\_

as Administrative Rules of the Board of Parole  
(Agency)

DATED this 1st day of December, 1986

By: Hazel N. Hays  
(Authorized Signer)

Title: Chairperson

Statutory Authority: Ballot Measure 10, passed Nov. 1986, Sections 14 and 16. ORS Chapter 144.

Subject Matter: The amendments are being temporarily adopted to implement the Victims' Bill of Rights.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Adoption and the )  
Amending of the Rules Governing Parole )  
Records and Prison Term Hearings. ) STATUTORY AUTHORITY, STATEMENT OF NEED,  
DOCUMENTS RELIED UPON, and FISCAL IMPACT  
STATEMENT

The Board of Parole is temporarily adopting new rules and amendments to enable the Board to include victims in the parole process in accordance with recent legislation on Victims' Rights.

- (a) Statutory Authority : Ballot Measure 10, passed Nov. 4, 1986, Sections 14 and 16. ORS Chapter 144.
- (b) Need for Amendments : The amendments are being temporarily adopted to implement the Victims' Bill of Rights.
- (c) Documents Relied Upon : Ballot Measure 10, passed Nov. 4, 1986.

12/2/86  
Date

Hazel G. Hays  
Hazel G. Hays, Chairperson  
Board of Parole

DIVISION 15

REQUEST FOR PAROLE BOARD RECORDS OR FILES

Parole Board Inmate File  
255-15-002

The Parole Board Inmate File shall contain the Board Review Packet, miscellaneous correspondence, and all other materials not germane to the determination of the inmate's prison term.

Board Review Packet  
255-15-003

- (1) The Parole Board shall consider only that information included in the Board Review Packet when establishing the inmate's prison term or in any further consideration of the inmate's case.
- (2) The Board Review Packet shall contain the materials listed in Exhibit N.

Procedures  
255-15-005

- (1) Any interested party may apply for selected file or record information.
- (2) Their request must be in writing, addressed to the Chairperson of the Parole Board and must specify the information requested.
- (3) The chairperson will designate one (1) or more employes to review files or records for disclosure.
- (4) The designated staff member(s), upon direction from the chairperson, will review the file[s](s) or record(s) as necessary and will determine what may be and what may not be disclosed, in accordance with OAR 255-15-010.
- (5) Within ten (10) working days [T]the designated staff member will [I:] advise the interested party if the requested information is not subject to disclosure.
  - [ (a) Advise the interested party if the Parole Board agrees to disclose a copy(ies) of the information, the number of pages of duplication required, and the cost thereof; or

- (b) Advise the interested party that the requested information is not subject to disclosure.]

Criteria for Disclosure or Denial of Disclosure of File or Record  
255-15-010

Files or records, which pertain to persons who are presently, or who were formerly under the jurisdiction of the Parole Board, may be disclosed to the interested party(ies) if the disclosure will not:

- (1) Interfere with the rehabilitation of the person concerned;
- (2) Endanger other persons;
- (3) Substantially interfere with the carrying out of the functions of the Parole Board or the Corrections Division; [or]
- (4) Compromise the privacy of another person[.] or
- (5) Conflict with the provisions of ORS 192.500 (2) (d).

Fee for Disclosure of Board Records or Files  
255-15-015

- (1) If the request is for specific, releaseable information from the Board Review Packet, the cost of the duplication will be fifty (50) cents [a] per page.
- (2) If the request requires [a file or record] review of the Parole Board Inmate File, [and] a determination of availability will be made by the reviewer[.], [t]he cost will be one dollar and twenty-five cents (\$1.25) [a] per page.
- (3) All computed costs includ[ing] staff time for review, reproduction, materials, and first class postage[.] will be determined by the Chairperson of the Board.
- (4) Except as noted below, no reproduction of file [or record] material is authorized until payment for the services has been received in the form of a Postal Money Order, Trust Account Check, or cashier's check made payable to the Oregon State Parole Board.
- (5) Payments will be deposited in Miscellaneous Receipts account in accordance with Business Office instructions.
- [ (6) Fees for reproduction of file information will not be

charged to government agencies or parties involved in the treatment of clients or former clients.]

Victim and District Attorney Access to Board Review Packet  
255-15-020

- (1) A copy of the Board Review Packet, contents as listed in Exhibit N, shall be made available to the victim and the District Attorney thirty (30) days prior to the scheduled hearing.
- (2) If the victim, his/her representative, or the District Attorney requests copies of the Board Review Packet, the fee for duplication shall be fifty (50) cents per page.
- (3) Copies of the Board Review packet shall be mailed to the victim, his/her representative, or the District Attorney, upon request, at a cost of fifty (50) cents per page plus an additional fee to cover the mailing expense.

DIVISION 30

PRISON TERM HEARING PROCEDURE

Policy

255-30-002

Definitions

255-30-005

- (1) "Prison term hearing": The hearing given a prisoner within six (6) months of admission to a correctional institution at which the Board establishes a prison term to be served according to the guideline ranges.
- (2) "Prison Term": The actual time to be served before the initial parole release date.
- (3) "Victim": The person(s) who has suffered financial, social, psychological or physical harm as a result of a crime. This includes, in case of a homicide, a member of the immediate family of the decedent; in the case of a minor victim, the legal guardian of the minor. In no event shall the criminal defendant be considered a victim.

Scheduling Prison Term Hearings

255-30-010

- (1) The Board shall [schedule] conduct a prison term hearing to establish a prison term for each new prisoner within six (6) months of admission to a Corrections Division facility.
- (2) The Board may continue the hearing to obtain additional information. The continuance may not extend beyond [past] six (6) months from admission plus thirty (30) days.
- (3) A prison term hearing shall be scheduled within six (6) months of commitment for any additional sentence received while in custody of a Corrections Division facility.
- [(4) The prisoner shall be notified in writing of the hearing and its purpose within fourteen (14) working days of the hearing date.]

Scheduling and Hearing Procedure for Aggravated Murder

255-30-012

Notification of Hearing  
255-30-013

- (1) The prisoner shall be notified, in writing, of the hearing and its purpose at least fourteen (14) days prior to the hearing date.
- (2) The Parole Board shall attempt to notify the victim, if the victim requests to be notified and furnishes the Board a current address, and the district attorney of the committing county at least thirty (30) days before all hearings by sending written notice to the current addresses of both.

Procedures for Hearings Involving Out of State Jurisdictions  
255-30-021

A prisoner in custody in another jurisdiction may be returned to Oregon or heard by teleconference call whether a full board or panel is applicable.

Who May Appear at a Parole Board Hearing  
255-30-025

- (1) The prisoner shall appear at the Parole Board hearing. Willful failure to appear does not relieve the Board of its statutory responsibility to make a decision in the prisoner's case. [Exceptions being those inmates who fail to appear due to circumstances beyond their control.]
- (2) The prisoner may be accompanied by a person of the prisoner's choice. Procedures for admission to a Parole Board hearing will be governed by the Corrections Division rule governing visiting. At the conclusion of the hearing, [T]he person accompanying the prisoner may make a statement, not to exceed three (3) minutes, [at the conclusion of the hearing.]
- (3) Assistance shall be provided to prisoners incapable of presenting their position due to language barriers, mental or emotional incapacity or educational deficiency. [shall be provided to prisoners meeting these criteria, by persons recommended by the institution superintendent and appointed by the chairperson of the panel.]
- (4) If the prisoner [needs assistance and] has an assistant [appointed by the chairperson] pursuant to this rule, it [this] shall not preclude the prisoner from being accompanied to the hearing by a person of the prisoner's choice.

- (5) The victim, personally, by counsel, or by representative; and the District Attorney from the committing jurisdiction have the right to appear at Parole Board Hearings.

Victim and District Attorney Statements  
255-30-027

- (1) At the conclusion of the hearing, the victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, may make statements.
- (2) At their discretion, the victim and/or the District Attorney may submit written statements adequately and reasonably expressing their views concerning the crime and person responsible in lieu of a personal appearance. These statements shall be received by the Board at least seven (7) days prior to the Parole Board hearing.
- (3) Written statements, provided by the victim and/or the District Attorney in lieu of personal appearance, shall be included in the Board Review Packet.

Information the Board [Must] Shall Consider at a Prison Term Hearing[; Parole Analysis Report; Other Material]  
255-30-035

- (1) The Board shall consider all information in the Board Review Packet pursuant to Exhibit N.
- (2) [(1)]The Corrections Division will provide a Presentence Investigation Report or similar report to the Board within 90 days of admission to a correctional facility. [prior to the prisoner's prison term hearing.] This report shall be prepared according to the sectional outline in Exhibit F. Any transcripts forwarded by the sentencing judge shall be attached to the Pre[ ]sentence Investigation.
- (3) [(2)]Additional information and recommendations from [police, district attorney, defense attorney, and] others with a special interest in the case [shall] may be considered [if available]. If considered, [S]such information shall be included in the Board Review Packet. [subject to the criteria of disclosure as set forth per OAR 255-15-010, to the prisoner.]
- (4) If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the rebuttal must be received by the Board ten (10) days prior to the hearing.

(5) All rebuttal information shall be included in the Board Review Packet, and shall be released to the inmate in accordance with OAR 255-15-010.

Prisoner's Access to the Written Materials Considered at Hearings and Interviews  
255-30-040

[ All information the Board is to consider at a hearing regarding the prisoner, except that exempted by ORS 192.500(2)(d), shall be reduced to writing and made available to the prisoner.]

(1) The prisoner shall have access to all the material in the Board Review Packet except that exempted by OAR 255-15-010 or 255-30-045.

(2) Information in the Board Review Packet subject to disclosure shall be sent to the inmate 30 days prior to the scheduled hearing or when the material is made available to the Board.

(3) The prisoner shall have access to all personal statements made by the victim and the District Attorney pursuant to OAR 255-30-027, and all rebuttal information pursuant to OAR 255-30-035.

Notification of Decision; Parties Notified; Content  
255-30-055

(1) Following a Board decision concerning the prison term of an inmate, the prisoner, sentencing court, District Attorney, the Corrections Division, and, upon request, the [prisoner's counsel] victim shall be notified in writing of the Board action.

(2) Such notification shall state the specific facts and reasons for the Board decision, including the history/risk score, offense severity rating, range and date set, the specific facts and reasons for a Board decision to go outside the applicable guideline range or to deny parole, and the votes of the individual Board members.

(3) The prisoner shall be given written notice of his/her right to administrative appeal of the decision as set forth in Division 80 of these rules.

Notification of Release; Parties Notified  
255-30-056

- (1) The Board shall notify the Sentencing Judge, the District Attorney, and the victim, if so requested under ORS 144.120 (7), at least 30 days prior to the release from actual physical custody, whether by work release, institutional leave, or any other means, of any convicted person.
- (2) Notification of release shall be accomplished with cooperation from the Corrections Division.

**FILED**  
JAN 12 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

**CERTIFICATE AND ORDER**  
for  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Board of Parole on Jan. 6, 1987 to become effective Jan. 7, 1987  
(Agency) (Date)

The within matter having come before the Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

- Adopted: (New Rules) Exhibit N pursuant to Rule 255-15-003.
- Amended: (Existing Rules) \_\_\_\_\_
- Suspended: (Temporary Only) \_\_\_\_\_
- Repealed: (Existing Rules) \_\_\_\_\_

as Administrative Rules of the Board of Parole  
(Agency)

DATED this 7th day of January, 19 87

By: Chalmers L. Jones  
(Authorized Signer)  
Title: Chairperson, Board of Parole

Statutory Authority: Ballot Measure 10, passed Nov. 4, 1986, Sections 14 and 16. ORS Chapter 144.

Subject Matter: This Exhibit is being adopted to aid in implementing the Victim' Bill of Rights  
which went into effect on Dec. 4, 1986.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

EXHIBIT N

BOARD REVIEW PACKET

The Board Review Packet may include one or more of the following:

1. Face Sheet
2. BAFs - back to prison term set hearing
3. Field Parole Analysis Report (PAR)
4. Presentence Investigation (PSI)
5. Psychological Evaluations - two most recent reports (see provisions of OAR 255-15-010 and 255-30-045)
6. Statements of Imprisonment (time served credits and/or parole violation)
7. Court Orders
8. Revocation Recommendation
9. Final Order of Revocation
10. Administrative Action Sheet
11. Morrissey Hearing Findings
12. Disciplinary Report - only with extension recommendation
13. Recommendation for Parole Violation Goodtime Restoration
14. Recommendation for Date Cut
15. Administrative Review Request Form and Documents
16. Rebuttal Information from Victim and/or District Attorney
17. Personal Statements from the Victim, District Attorney, Inmate
18. Any other information used by the Board in establishing an inmate's prison term.

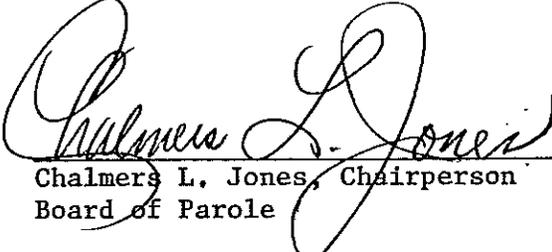
BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Adoption of )  
an Exhibit to the Rules Governing ) STATUTORY AUTHORITY,  
the Board Review Packet. ) STATEMENT OF NEED, and  
 ) DOCUMENTS RELIED UPON

The Board of Parole is temporarily adopting a new Exhibit to aid in implementing the legislation on Victims' Rights which went into effect on December 4, 1986.

- (a) Statutory Authority : Ballot Measure 10, passed Nov. 4, 1986, Sections 14 and 16. ORS Chapter 144.
- (b) Need for Exhibit : The Exhibit is being temporarily adopted to implement the Victims' Bill of Rights.
- (c) Documents Relied Upon : Ballot Measure 10, passed Nov. 4, 1986.

Date

  
Chalmers L. Jones, Chairperson  
Board of Parole

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

**FILED**  
APR 1 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

Board of Parole on March 20, 1987 to become effective \_\_\_\_\_

(Agency)

(Date)

April 1st 1987  
(Date)

The within matter having come before the Board of Parole after \_\_\_\_\_  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: Dec. 1, 1986

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

\_\_\_\_\_  
\_\_\_\_\_

Amended:  
(Existing Rules)

OAR 255-70-010, and Exhibit J.

**RECEIVED**

APR 1 1987

ended:  
(Temporary Only)

\_\_\_\_\_  
\_\_\_\_\_

LEGISLATIVE COUNSEL'S  
OFFICE

Repealed:  
(Existing Rules)

\_\_\_\_\_  
\_\_\_\_\_

Administrative Rules of the Board of Parole \_\_\_\_\_  
(Agency)

DATED this 1st day of April, 1987

By: Chulmer Jones  
(Authorized Signer)

Title: Chairperson, Board of Parole

Statutory Authority: ORS 144.270, ORS Chapter 144.

Subject Matter: These rules are being amended to update the conditions of parole.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews

Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Amending )  
of the Rules Governing the ) STATUTORY AUTHORITY, STATEMENT OF NEED,  
Conditions of Parole ) DOCUMENTS RELIED UPON, and  
 ) FISCAL IMPACT STATEMENT

The Board of Parole is permanently amending the above named rules to update the conditions of parole.

- (a) Statutory Authority : ORS 144.270, ORS Chapter 144.  
(b) Need for Rule : The rules are being permanently amended to streamline parole procedures and to update the conditions of parole.  
(c) Documents Relied Upon : None.

Date

April 1, 1987

Chalmers Jones, Chairperson  
Board of Parole

DIVISION 20

CONDITIONS OF PAROLE

Conditions of Parole

255-20-001 Conditions of parole may be imposed by the Board pursuant to DAR 255-35-016. Conditions of parole are not limited to those shown in Exhibit J.

Parolee Placement in Community Corrections Centers: Standards and Limitations

255-20-005

Guidelines on [Standard] General Condition Relating to "Best Interest" Return

255-20-010 As used in the [standard] general conditions of the Order of Parole, revocation of parole when it is "in my best interest or in the best interest of society" shall refer to the following situations:

(1) The parolee is suffering from an emotional or psychological disturbance which makes him/her substantially dangerous to self or others if left in the community and which may be indicated by threatening behavior in the form of:

(a) Some overt act showing a present capacity to carry out any statements or threats of violence; or

(b) The substantial duplication of circumstances and conduct which led to the initial incarceration.

(2) The parolee's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program).

## EXHIBIT J

### GENERAL/SPECIAL PAROLE CONDITIONS

Parole is ordered subject to all listed General Conditions and the designated Special Conditions. Parole may be revoked for violation of these conditions, or upon a determination that the parole is no longer in the best interest of the parolee or society.

#### GENERAL CONDITIONS:

1. Abide by the direction and counsel of the Corrections Division and its representatives. Answer all reasonable inquiries of the Board of Parole or the Parole Officer.
2. Not to change residence without first notifying the parole officer.
3. Upon release, proceed at once to the place of residence and report arrival within 24 hours to the nearest office of Parole and Probation, Corrections Division, or according to instructions at time of release.
4. Find and maintain gainful employment, approved schooling, or other approved programming.
5. If my residence is within the State of Oregon, I shall not leave the state without first securing permission in writing from my supervising officer.
6. If my residence is outside the State of Oregon, I shall not re-enter the State of Oregon without permission in writing from the Administrator of Corrections Division.
7. Make a written and truthful report on the last day of each and every month to the Administrator, Corrections Division, on forms which will be furnished, giving information required therein.
8. Not own, possess, or be in control of any weapon.
9. Obey all municipal, county, state, and federal laws.

#### SPECIAL CONDITIONS:

1. Submit person, residence, vehicle and property to search by a parole officer having reasonable grounds to believe such search will disclose evidence of parole violation.
2. Become involved in a drug surveillance program.

3. Become involved in a drug treatment program.
4. Become involved in a mental health treatment program.
5. (a) Not use intoxicating beverages.
5. (b) Not use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.
5. (c) Undertake and maintain an antabuse program, if medically approved. If approved, antabuse will be implemented prior to release.
5. (d) Undertake and maintain an alcohol treatment program.
6. Not have a checking account.
7. Restitution to the victim has been made part of your parole (ORS 144.275). Your Parole Officer will submit a payment schedule for Board approval.
8. No contact with minors (male/female) nor frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
9. Other: Special conditions may be imposed that are not listed above when the Board of Parole determines that such conditions are required.

**INSTRUCTIONS:**

1. In order to comply with Rule #3, I will report to:

\_\_\_\_\_

;

\_\_\_\_\_

2. I understand that a detainer has been filed against me by the:

\_\_\_\_\_

If an in-state detainer, immediately upon release I shall report to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If an out-of-state detainer, prior to release from the detainer, I

shall report in writing to the Oregon Corrections Division,  
Interstate Compact Services, 2575 Center Street, NE, Salem, OR  
97310, to arrange for my Oregon parole supervision.

**FILED**  
APR 28 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

**CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Board of Parole on March 26, 1987 to become effective \_\_\_\_\_  
(Agency) (Date)  
April 28, 1987  
(Date)

The within matter having come before the Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:  
Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: Dec. 15, 1986, Feb. 1, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: 255-15-002; 255-15-003, 255-15-020, 255-15-030, 255-30-013, 255-30-027,  
(New Rules) 255-30-056.

Amended: 255-15-005, 255-15-010, 255-15-015, 255-30-005, 255-30-010, 255-30-021,  
(Existing Rules) 255-30-025, 255-30-035, 255-30-040, 255-30-055.

Adopted: \_\_\_\_\_  
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

**RECEIVED**  
APR 28 1987  
LEGISLATIVE COUNSEL'S  
OFFICE

as Administrative Rules of the Board of Parole  
(Agency)

DATED this 28th day of April, 19 87

By: *Georgina Dews*  
(Authorized Signer)  
Title: Chairperson

Statutory Authority: Ballot Measure 10, passed Nov. 4, 1986, Sections 14 and 16. ORS Chapter 144.

Subject Matter: The amendments are being permanently adopted to implement the Victims' Bill of Rights

Statement of Need Attached:  Fiscal Impact Attached:   
For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

DIVISION 15

REQUEST FOR PAROLE BOARD RECORDS OR FILES

Parole Board Inmate File  
255-15-002

The Parole Board Inmate File shall contain the Board Review Packet, miscellaneous correspondence, and all other materials not germane to the determination of the inmate's prison term.

Board Review Packet  
255-15-003

- (1) The Parole Board shall consider only that information included in the Board Review Packet when establishing the inmate's prison term or in any further consideration of the inmate's case.
- (2) The Board Review Packet shall contain the materials listed in OAR 255-15-030.

Procedures  
255-15-005

- (1) Any interested party may apply for selected file or record information.
- (2) Their request must be in writing, addressed to the Chairperson of the Parole Board and must specify the information requested.
- (3) The chairperson will designate one (1) or more employees to review files or records for disclosure.
- (4) The designated staff member(s), upon direction from the chairperson, will review the file(s) or record(s) as necessary and will determine what may be and what may not be disclosed, in accordance with OAR 255-15-010.
- (5) Within ten (10) working days [T]the designated staff member will:] advise the interested party if the requested information is not subject to disclosure.
  - (a) Advise the interested party if the Parole Board agrees to disclose a copy(ies) of the information, the number of pages of duplication required, and the cost thereof; or

- (b) Advise the interested party that the requested information is not subject to disclosure.]

Criteria for Disclosure or Denial of Disclosure of File or Record  
255-15-010

Files or records, which pertain to persons who are presently, or who were formerly under the jurisdiction of the Parole Board, may be disclosed to the interested party(ies) if the disclosure will not:

- (1) Interfere with the rehabilitation of the person concerned;
- (2) Endanger other persons;
- (3) Substantially interfere with the carrying out of the functions of the Parole Board or the Corrections Division; (or)
- (4) Compromise the privacy of another person;] or
- (5) Conflict with the provisions of ORS 192.500 (2) (d).

Fee for Disclosure of Board Records or Files  
255-15-015

- (1) If the request is for specific, releasable information from the Board Review Packet, the cost of the duplication will be fifty (50) cents [a] per page.
- (2) If the request requires [a file or record] review of the Parole Board Inmate File, [and] a determination of availability will be made by the reviewer[,], [t]he cost will be one dollar and twenty-five cents (\$1.25) [a] per page.
- (3) All computed costs including ing staff time for review, reproduction, materials, and first class postage.] will be determined by the Chairperson of the Board.
- (4) Except as noted below, no reproduction of file [or record] material is authorized until payment for the services has been received in the form of a Postal Money Order, Trust Account Check, or cashier's check made payable to the Oregon State Parole Board.
- (5) Payments will be deposited in Miscellaneous Receipts account in accordance with Business Office instructions.
- (6) Fees for reproduction of file information will not be

charged to government agencies or parties involved in the treatment of clients or former clients.)

Victim and District Attorney Access to Board Review Packet  
255-15-020

- (1) A copy of the Board Review Packet, contents as listed in OAR 255-15-030 shall be made available to the victim and the District Attorney thirty (30) days prior to the scheduled hearing.
- (2) If the victim, his/her representative, or the District Attorney requests copies of the Board Review Packet, the fee for duplication shall be fifty (50) cents per page.
- (3) Copies of the Board Review packet shall be mailed to the victim, his/her representative, or the District Attorney, upon request, at a cost of fifty (50) cents per page plus an additional fee to cover the mailing expense.

Contents of Board Review Packet  
255-15-030

The Board Review Packet may include one or more of the following:

1. Face Sheet
2. Board Action Forms
3. Presentence Investigation (PSI)/Post Sentence Report (PSR) or similar comparable report
4. Psychological Evaluations - two most recent reports (see provisions of OAR 255-15-010 and 255-30-045)
5. Statements of Imprisonment (time served credits)
6. Court Orders
7. Revocation Recommendations
8. Morrissey Hearing Findings
9. Parole Revocation Action Sheet (pink)
10. Final Order of Parole Revocation/Parole Reinstatement Order
11. Disciplinary Reports - current commitment
12. Recommendation for Date Cut
13. Administrative Review Request Form and related documents
14. Information from victim(s), or their representatives, District Attorney(s), and inmate pursuant to Measure 10.
15. Any other information used by the Board and deemed pertinent to the inmate's case.
16. After Sentence Reports (144.210) only on crimes committed prior to September 20, 1985.

4/28/87

## DIVISION 30

### PRISON TERM HEARING PROCEDURE

#### Policy

255-30-002

#### Definitions

255-30-003

- (1) "Prison term hearing": The hearing given a prisoner within six (6) months of admission to a correctional institution at which the Board establishes a prison term to be served according to the guideline ranges.
- (2) "Prison Term": The actual time to be served before the initial parole release date.
- (3) "Victim": The actual victim, a representative selected by the victim or the victim's next of kin.

#### Scheduling Prison Term Hearings

255-30-010

- (1) The Board shall [schedule] conduct a prison term hearing to establish a prison term for each new prisoner within six (6) months of admission to a Corrections Division facility.
- (2) The Board may continue the hearing to obtain additional information. The continuance may not extend beyond [past] six (6) months from admission plus thirty (30) days.
- (3) A prison term hearing shall be scheduled within six (6) months of commitment for any additional sentence received while in custody of a Corrections Division facility.
- (4) The prisoner shall be notified in writing of the hearing and its purpose within fourteen (14) working days of the hearing date.]

#### Scheduling and Hearing Procedure for Aggravated Murder

255-30-012

Notification of Hearing

255-30-013

- (1) The prisoner shall be notified, in writing, of the hearing and its purpose at least fourteen (14) days prior to the hearing date.
- (2) The Parole Board shall attempt to notify the victim, if the victim requests to be notified and furnishes the Board a current address, and the District attorney of the committing county at least thirty (30) days before all hearings by sending written notice to the current addresses of both.

Procedures for Hearings Involving Out of State Jurisdictions

255-30-021

A prisoner in custody in another jurisdiction may be returned to Oregon or heard by teleconference call whether a full board or panel is applicable.

Who May Appear at a Parole Board Hearing

255-30-025

- (1) The prisoner shall appear at the Parole Board hearing. Willful failure to appear does not relieve the Board of its statutory responsibility to make a decision in the prisoner's case. [Exceptions being those inmates who fail to appear due to circumstances beyond their control.]
- (2) The prisoner may be accompanied by a person of the prisoner's choice. Procedures for admission to a Parole Board hearing will be governed by the Corrections Division rule governing visiting. At the conclusion of the hearing, [T]he person accompanying the prisoner may make a statement, not to exceed three (3) minutes, [at the conclusion of the hearing.]
- (3) Assistance shall be provided to prisoners incapable of presenting their position due to language barriers, mental or emotional incapacity or educational deficiency, [shall be provided to prisoners meeting these criteria by persons recommended by the institution superintendent and appointed by the chairperson of the panel.]
- (4) If the prisoner [needs assistance and] has an assistant [appointed by the chairperson] pursuant to this rule, it [this] shall not preclude the prisoner from being accompanied to the hearing by a person of the prisoner's choice.

- (5) The victim, personally, by counsel, or by representative and the District Attorney from the committing jurisdiction have the right to appear at Parole Board Hearings.

Victim and District Attorney Statements  
255-30-022

- (1) At the conclusion of the hearing, the victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, may make statements.
- (2) At their discretion, the victim and/or the District Attorney may submit written statements adequately and reasonably expressing their views concerning the crime and person responsible in lieu of a personal appearance. These statements shall be received by the Board at least seven (7) days prior to the Parole Board hearing.
- (3) Written statements, provided by the victim and/or the District Attorney in lieu of personal appearance, shall be included in the Board Review Packet.

Information the Board (Must) Shall Consider at a Prison Term Hearing: Parole Analysis Report; Other Material  
255-30-032

- (1) The Board shall consider all information in the Board Review Packet pursuant to OAR 255-15-030
- (2) [(1)]The Corrections Division will provide a Presentence Investigation Report or similar report to the Board within 90 days of admission to a correctional facility, (prior to the prisoner's prison term hearing.) This report shall be prepared according to the sectional outline in Exhibit F. Any transcripts forwarded by the sentencing judge shall be attached to the Pre-Sentence Investigation.
- (3) [(2)]Additional information and recommendations from (police, district attorney, defense attorney, and) others with a special interest in the case (shall) may be considered (if available). If considered, (S)uch information shall be included in the Board Review Packet, (subject to the criteria of disclosure as set forth per OAR 255-15-010, to the prisoner.)
- (4) If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the rebuttal must be received by the Board ten (10) days prior to the hearing.

4/28/87

(5) All rebuttal information shall be included in the Board Review Packet, and shall be released to the inmate in accordance with OAR 255-15-010.

Prisoner's Access to the Written Materials Considered at Hearings and Interviews  
255-30-040

[ All information the Board is to consider at a hearing regarding the prisoner, except that exempted by ORS 192.500(2)(d), shall be reduced to writing and made available to the prisoner.]

(1) The prisoner shall have access to all the material in the Board Review Packet except that exempted by OAR 255-15-010 or 255-30-045.

(2) Information in the Board Review Packet subject to disclosure shall be sent to the inmate 30 days prior to the scheduled hearing or when the material is made available to the Board.

(3) The prisoner shall have access to all personal statements made by the victim and the District Attorney pursuant to OAR 255-30-027, and all rebuttal information pursuant to OAR 255-30-035.

Notification of Decision: Parties Notified: Content  
255-30-055

(1) Following a Board decision concerning the prison term of an inmate, the prisoner, sentencing court, District Attorney, the Corrections Division, and, upon request, the [prisoner's counsel] victim shall be notified in writing of the Board action.

(2) Such notification shall state the specific facts and reasons for the Board decision, including the history/risk score, offense severity rating, range and date set, the specific facts and reasons for a Board decision to go outside the applicable guideline range or to deny parole, and the votes of the individual Board members.

(3) The prisoner shall be given written notice of his/her right to administrative appeal of the decision as set forth in Division 80 of these rules.

Notification of Release; Parties Notified  
255-30-056

- (1) The Board shall notify the Sentencing Judge, the District Attorney, and the victim, if so requested under ORS 143.120 (2), at least 30 days prior to the release from actual physical custody, whether by work release, institutional leave, or any other means, of any convicted person.
- (2) Notification of release shall be accomplished with cooperation from the Corrections Division.

CERTIFICATE AND ORDER

for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

FILED  
JUN 05 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

Board of Parole

(Agency)

on

(Date)

to become effective \_\_\_\_\_

June 8th 1987

(Date)

The within matter having come before the \_\_\_\_\_ Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.

or

TEMP.

Adopted:  
(New Rules) \_\_\_\_\_

Amended:  
(Existing Rules) \_\_\_\_\_ 255-35-022, 255-35-005 \_\_\_\_\_

Suspended:  
(Temporary Only) \_\_\_\_\_

Repealed:  
(Existing Rules) \_\_\_\_\_

as Administrative Rules of the \_\_\_\_\_ Board of Parole \_\_\_\_\_  
(Agency)

DATED this 5th day of June, 19 87

By: Doug Dinmore  
(Authorized Signer)

Title: Vice Chair

Statutory Authority: ORS 144.785, ORS Chapter 144.

Subject Matter: Consecutive Sentences. The rules are being amended to comply with  
a recent Attorney General Opinion.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the matter of the Amending )  
of the Rules Governing Conse- ) STATEMENT OF JUSTIFICATION  
cutive Sentences and Defini- )  
tions for Division 35. )

The Board of Parole is temporarily amending the above named rules to comply with a recent Attorney General Opinion.

- (a) Statutory Authority : ORS 144.785, ORS Chap. 144.
- (b) Need for Rule : The rules are being temporarily amended so as to comply with a recent Attorney General Opinion.
- (c) Documents Relied Upon : Attorney General Opinion # OP-6100, dated Feb. 19, 1987.

6-5-87  
Date

Douglas Dinsmore  
Douglas Dinsmore, Vice Chair  
Board of Parole

DIVISION 35

APPLICATION OF THE GUIDELINES  
TO ESTABLISH A PRISON TERM

Definitions

- 255-35-005 (1) "Crime severity rating": The classification given to a prisoner's commitment crime according to the seriousness.
- (2) "History/risk score": Refers to the Criminal History/Risk Assessment. It is a rating, from a high of eleven (11) to a low of zero (0) points, based on the seriousness of the prior record and factors reflecting likelihood of success on parole.
- (3) "Guideline ranges": Ranges of months to be served as a prison term before parole release for each crime severity rating and history/risk score.
- (4) "Guideline matrix": A table which displays the guideline range by showing the intersection of the crime severity rating and the history/risk score.
- (5) "Initial parole release date": A fixed date, by month, day and year, assigned to a prisoner for parole release based on the guideline range for his/her particular offense severity rating and history/risk score.
- (6) "Particularly violent or otherwise dangerous criminal conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.
- (7) "Serious physical injury": An injury which creates or causes substantial risk of death, or serious and protracted disfigurement, or protracted impairment of health or the protracted loss or impairment of the function of any bodily organ.
- (8) "Harm-loss": The actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.
- (9) "Principal range": The range for the crime holding the highest severity.
- (10) "Subordinate range": The shorter range, or if two or more ranges are identical the remaining range or ranges shall be the subordinate range or ranges.

[ (11) "Base range": The range for each crime category that is reflected in Exhibit C under the "Excellent" column.]

(11) [ (12) "Summing the ranges": An action taken in cases where sentences have been imposed consecutively in which the base range for each consecutive sentence is added to the principal range.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the Adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Rating Crime Severity: Generally, Multiple Concurrent Convictions

255-35-010 (1) The Board shall assign a crime severity rating from one to seven, according to Exhibit A, for each prisoner's commitment crime(s).

(2) Two or more convictions with sentences to be served at the same time (concurrent sentences) shall be rated according to the most serious crime. The prisoner shall be given a prison term that results in the longest incarceration.

(3) When there are two (2) or more sentences that have been imposed consecutively, each crime shall be rated separately in accordance with rule 255-35-022.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 2-1981, f. 3-5-81, ef. 4-1-81; 2PB 4-1981(Temp), f. & ef. 11-4-81; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Consecutive Sentences: Effect of Consecutive Sentences on Establishing a Prison Term

255-35-022 (1) When consecutive sentences have been imposed, a crime severity rating, history risk score and a matrix range shall be assigned for each crime.

(2) The duration of the term of imprisonment shall be the sum of the terms set by the Board pursuant to the ranges established for the offenses set forth in Exhibit C.

(3) The term of imprisonment may be subject to variations established in accordance with OAR 255-35-035 and Exhibit D.

(4) [(2)] The Board shall consider the summed ranges as a single unified range. [Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum].

[(3) In summing the ranges, the Board shall first establish the crime category, history risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.]

(5) [(4)] The Board may, by four (4) affirmative [concurring] votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.

(6) [(5)] The following factors are [maybe] considered by the Board in determining whether or not to sum the ranges:

(a) consecutive sentences are not appropriate penalties for the criminal offenses involved; and

(b) the combined terms of imprisonment are not necessary to protect the community security.

[(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:]

[(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;]

[(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;]

[(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.]

[(D) When the ranges or minimum sentences, if any, are sufficient sanction without summing the ranges.]

[(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:]

[(A) When the history/risk score for the principal range is three (3) or more;]

[(B) When the crimes are part of the same criminal episode;]

[(C) When minimum sentences exceed the range of the principal range;]

[(D) When sufficient mitigation is present (refer to Exhibit E).]

(7) [(6)] When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board \_\_\_\_\_ [with or without a recommendation.]

(8) [(7)] If the panel finds that the matrix range [prison term established according to matrix guidelines] is inadequate to establish a prison term based upon findings [because] of [the] aggravation or mitigation, it shall secure a third vote or refer the matter to the Full Board \_\_\_\_\_ [for consideration whichever is appropriate.]

[(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation.]

(9) [(a)] When additional [If a single] consecutive sentence(s) are [is] imposed, the prison term shall be established as for a single new sentence. [and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment.]

(a) If a sentence is imposed consecutively to one already being served, the matrix range shall be assigned as for a single new sentence.

[(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences;]

(b) When a sentence is imposed consecutively to a sentence on which parole has been granted, the matrix range shall be assigned as for a single new sentence.

[(c) Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.]

[(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the Full Board to consider treating the ranges concurrently.]

[(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.]

FILED  
JUN 18 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Board of Parole on June 17, 1987 to become effective \_\_\_\_\_  
(Agency) (Date)  
June 18, 1987  
(Date)

The within matter having come before the Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: \_\_\_\_\_  
(New Rules)

Amended: 255-35-022, 255-35-005  
(Existing Rules)

Suspended: \_\_\_\_\_  
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

RECEIVED  
JUN 18 1987  
LEGISLATIVE COUNSEL'S  
OFFICE

as Administrative Rules of the Board of Parole \_\_\_\_\_  
(Agency)

DATED this 17th day of June, 1987

By: Vann R. Leahy  
(Authorized Signer)

Title: Chairman, Board of Parole

Statutory Authority: ORS 144.785, ORS Chapter 144.

Subject Matter: Consecutive Sentences. The rules are being amended to comply with a recent  
Attorney General Opinion.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

DIVISION 35

APPLICATION OF THE GUIDELINES  
TO ESTABLISH A PRISON TERM

Definitions

255-35-005 (1) "Crime severity rating": The classification given to a prisoner's commitment crime according to the seriousness.

(2) "History/risk score": Refers to the Criminal History/Risk Assessment. It is a rating, from a high of eleven (11) to a low of zero (0) points, based on the seriousness of the prior record and factors reflecting likelihood of success on parole.

(3) "Guideline ranges": Ranges of months to be served as a prison term before parole release for each crime severity rating and history/risk score.

(4) "Guideline matrix": A table which displays the guideline range by showing the intersection of the crime severity rating and the history/risk score.

(5) "Initial parole release date": A fixed date, by month, day and year, assigned to a prisoner for parole release based on the guideline range for his/her particular offense severity rating and history/risk score.

(6) "Particularly violent or otherwise dangerous criminal conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

(7) "Serious physical injury": An injury which creates or causes substantial risk of death, or serious and protracted disfigurement, or protracted impairment of health or the protracted loss or impairment of the function of any bodily organ.

(8) "Harm-loss": The actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.

(9) "Principal range": The range for the crime holding the highest severity.

(10) "Subordinate range": The shorter range, or if two or more ranges are identical the remaining range or ranges shall be the subordinate range or ranges.

(11) "Base range": The range for each crime category that is reflected in Exhibit C under the "Excellent" column.

(12) "Summing the ranges": An action taken in cases where sentences have been imposed consecutively in which the base range for each consecutive sentence is added to the principal range.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the Adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Rating Crime Severity: Generally, Multiple Concurrent Convictions

255-35-010 (1) The Board shall assign a crime severity rating from one to seven, according to Exhibit A, for each prisoner's commitment crime(s).

(2) Two or more convictions with sentences to be served at the same time (concurrent sentences) shall be rated according to the most serious crime. The prisoner shall be given a prison term that results in the longest incarceration.

(3) When there are two (2) or more sentences that have been imposed consecutively, each crime shall be rated separately in accordance with rule 255-35-022.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 2-1981, f. 3-5-81, ef. 4-1-81; 2PB 4-1981(Temp), f. & ef. 11-4-81; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Consecutive Sentences: Effect of Consecutive Sentences on Establishing a Prison Term

255-35-022 (1) When consecutive sentences have been imposed, a crime severity rating, history risk score and a matrix range shall be assigned for each crime.

(2) The duration of the term of imprisonment shall be the sum of the terms set by the Board pursuant to the ranges established for the offenses set forth in Exhibit C.

(3) The term of imprisonment may be subject to variations established in accordance with OAR 255-35-035 and Exhibit D.

(4) [(2)] The Board shall consider the summed ranges as a single unified range. [Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum].

[(3) In summing the ranges, the Board shall first establish the crime category, history risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.]

(5) [(4)] The Board may, by four (4) affirmative [concurring] votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.

(6) [(5)] The following factors are [maybe] considered by the Board in determining whether or not to sum the ranges:

(a) consecutive sentences are not appropriate penalties for the criminal offenses involved; and

(b) the combined terms of imprisonment are not necessary to protect the community security.

[(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:]

[(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;]

[(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;]

[(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.]

[(D) When the ranges or minimum sentences, if any, are sufficient sanction without summing the ranges.]

[(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:]

[(A) When the history/risk score for the principal range is three (3) or more;]

[(B) When the crimes are part of the same criminal episode;]

[(C) When minimum sentences exceed the range of the principal range;]

[(D) When sufficient mitigation is present (refer to Exhibit E).]

(7) [(6)] When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board. [with or without a recommendation.]

(8) [(7)] If the panel finds that the matrix range [prison term established according to matrix guidelines] is inadequate to establish a prison term based upon findings [because] of [the] aggravation or mitigation, it shall secure a third vote or refer the matter to the Full Board. [for consideration whichever is appropriate.]

[(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation.]

(9) [(a)] When additional [If a single] consecutive sentence(s) are [is] imposed, the prison term shall be established as for a single new sentence. [and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment.]

(a) If a sentence is imposed consecutively to one already being served, the matrix range shall be assigned as for a single new sentence.

[(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences;]

(b) When a sentence is imposed consecutively to a sentence on which parole has been granted, the matrix range shall be assigned as for a single new sentence.

[(c) Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.]

[(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the Full Board to consider treating the ranges concurrently.]

[(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.]

**FILED**  
JUL 07 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

**CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Board of Parole \_\_\_\_\_ on July 6, 1987 \_\_\_\_\_ to become effective \_\_\_\_\_  
(Agency) (Date)  
July 7, 1987 \_\_\_\_\_  
(Date)

The within matter having come before the Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: \_\_\_\_\_  
(New Rules)

Amended: \_\_\_\_\_  
(Existing Rules) 255-35-023

Suspended: \_\_\_\_\_  
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

RECEIVED

JUL 07 1987

LEGISLATIVE COUNSEL'S  
OFFICE

as Administrative Rules of the Board of Parole \_\_\_\_\_  
(Agency)

DATED this 6th day of July, 1987

By: Ann C. Lackey  
(Authorized Signer)

Title: Chairman, Board of Parole

Statutory Authority: ORS 144.785, ORS Chap. 144.

Subject Matter: Consecutive Minimums. The rule is being amended to comply with  
two recent Court of Appeals Decisions.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the matter of the Amending )  
of the Rule Governing the Ef- )  
fect of Judicial Minimum Sen- )  
tences on Prison Terms Under )  
ORS 144.110. )

STATEMENT OF JUSTIFICATION

The Board of Parole is temporarily amending the above named rule to comply with two recent Court of Appeals Decisions. Failure to promptly amend this rule would require the Board to change its procedures. A change in procedures would bring about the use of inconsistent standards being applied to a certain group of inmates. In addition, these procedures could result in the early release of some inmates, thereby endangering the public. The Board finds that these factors will seriously prejudice the public interest.

- (a) Statutory Authority : ORS 144.785, ORS Chap. 144.
- (b) Need for Rule : The rule is being temporarily amended so as to comply with two recent Court of Appeals Decisions.
- (c) Documents Relied Upon : Court of Appeals Decisions, Steven Hill v. Board of Parole, CA #A35940, and Franklin D. Roof v. Board of Parole, CA #A41919.

Date

7/6/87

  
Vern L. Faatz, Chairman  
Board of Parole

Effect of Judicial Minimum Sentences on Prison Terms Under  
ORS 144.110

255-35-023 (1) The Board shall not release a prisoner before a judicially imposed minimum prison term sentence has been served except when at least four members of the Board find that:

[(a) The court applied the guideline rules incorrectly; or]

(a) [(b)] The Board has information not available to the court at the time of sentencing; or

(b) [(c)] The court's findings, though technically correct, lead to an inequitable result; or,

(c) The consecutive minimums are not appropriate penalties for the criminal offenses involved; or

(d) The combined consecutive minimums are not necessary to protect the community security.

(2) The Board may, by four (4) concurring votes:

(a) Unsum one or more of the ranges, and/or

(b) Unsum one or more of the judicial (ORS 144.110) minimums; and/or;

(c) Override one or more of the judicial (ORS 144.110) minimums.

(3) [(2)] The Board shall state the facts and reasons for its actions and it shall then inform the sentencing court of its decisions and reasons. The Board shall then set an initial parole release date in accordance with rule 255-35-013.

**FILED**  
JUL 21 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

**CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Board of Parole  
on July 20, 1987 to become effective July 21, 1987  
(Agency) (Date) (Date)

The within matter having come before the Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:  
Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules) \_\_\_\_\_  
\_\_\_\_\_

Amended:  
(Existing Rules) 255-35-005, 255-35-022 (suspend amendments).  
\_\_\_\_\_

Suspended:  
(Temporary Only) \_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules) \_\_\_\_\_  
\_\_\_\_\_

**RECEIVED**  
JUL 21 1987  
LEGISLATIVE COUNSEL'S  
OFFICE

as Administrative Rules of the Board of Parole  
(Agency)

DATED this 21st day of July, 19 87

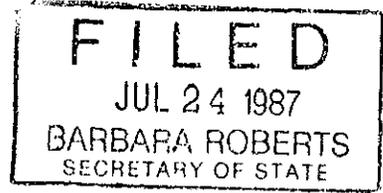
By: *Vern P. Seal*  
(Authorized Signer)  
Title: Chairman, Board of Parole

Statutory Authority: ORS 144.785, ORS Chapter 144.

Subject Matter: Consecutive Sentences, the rules are being recinded to comply  
with HB 3384, signed by the Governor on July 11, 1987.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334



BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the matter of the Amending )  
of the Rule Governing Consecu- ) STATEMENT OF JUSTIFICATION  
tive Sentences, )  
)

The Board of Parole is temporarily amending the above rules because they were incorrectly rescinded on July 21, 1987. Failure to promptly amend these rules will result in the application of improper findings in making parole decisions. These improper findings will allow for inconsistent decisions and in some cases inaccurate decisions, thereby endangering the public and raising the possibility of liability for the Board. The Board finds that these factors will result in serious prejudice to the public interest.

- (a) Statutory Authority : ORS 144.785, ORS Chap. 144.
- (b) Need for Rule : The rules are being temporarily amended because they were incorrectly rescinded on July 21, 1987.
- (c) Documents Relied Upon : None.

Date 7/29/87

Vern L. Faatz  
Vern L. Faatz, Chairman  
Board of Parole

OREGON ADMINISTRATIVE RULES  
CHAPTER 255, DIVISION 35 --  
BOARD OF PAROLE

DIVISION 35

APPLICATION OF THE GUIDELINES  
TO ESTABLISH A PRISON TERM

Definitions

255-35-005 (1) "Crime severity rating": The classification given to a prisoner's commitment crime according to the seriousness.

(2) "History/risk score": Refers to the Criminal History/Risk Assessment. It is a rating, from a high of eleven (11) to a low of zero (0) points, based on the seriousness of the prior record and factors reflecting likelihood of success on parole.

(3) "Guideline ranges": Ranges of months to be served as a prison term before parole release for each crime severity rating and history/risk score.

(4) "Guideline matrix": A table which displays the guideline range by showing the intersection of the crime severity rating and the history/risk score.

(5) "Initial parole release date": A fixed date, by month, day and year, assigned to a prisoner for parole release based on the guideline range for his/her particular offense severity rating and history/risk score.

(6) "Particularly violent or otherwise dangerous criminal conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

(7) "Serious physical injury": An injury which creates or causes substantial risk of death, or serious and protracted disfigurement, or protracted impairment of health or the protracted loss or impairment of the function of any bodily organ.

(8) "Harm-loss": The actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.

(9) "Principal range": The range for the crime holding the highest severity.

(10) "Subordinate range": The shorter range, or if two or more ranges are identical the remaining range or ranges shall be the subordinate range or ranges.

(11) "Base range": The range for each crime category that is reflected in Exhibit C under the "Excellent" column.

(12) "Summing the ranges": An action taken in cases where sentences have been imposed consecutively in which the base range for each consecutive sentence is added to the principal range.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the Adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Rating Crime Severity: Generally, Multiple Concurrent Convictions

255-35-010 (1) The Board shall assign a crime severity rating from one to seven, according to Exhibit A, for each prisoner's commitment crime(s).

(2) Two or more convictions with sentences to be served at the same time (concurrent sentences) shall be rated according to the most serious crime. The prisoner shall be given a prison term that results in the longest incarceration.

(3) When there are two (2) or more sentences that have been imposed consecutively, each crime shall be rated separately in accordance with rule 255-35-022.

[ED.NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 2-1981, f. 3-5-81, ef. 4-1-81; 2PB 4-1981(Temp), f. & ef. 11-4-81; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

& ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Establishing Conditions of Parole

255-35-016 (1) If the Board in setting a release date waives a parole release hearing it shall specify condition(s) of parole including special conditions that shall be added to the parole order in accordance with OAR 255-70-001.

(2) The Board may order an exit interview prior to the release of the prisoner on parole.

(3) Parole conditions may be amended administratively by a panel of the Board; changes shall be supported by written findings.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 9-1985, f. & ef. 5-31-85

Effect of Time on Escape on Prison Terms

255-35-020 Inoperative Time on Escape: In establishing the parole release date for a person who has escaped from a state correctional facility, time on escape shall not count toward the completion of the prison term. The time on escape prior to the parole release date shall be added to the prison term.

Stat.Auth.: ORS Ch. 144

Hist: 2PB 1-1979, f. & ef. 2-1-79; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED.NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Consecutive Sentences: Effect of Consecutive Sentences on Establishing a Prison Term

255-35-022 (1) When consecutive sentences have been imposed, a rating and a range shall be assigned for each crime.

(2) The Board shall consider the summed ranges as a single unified range. Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum.

(3) In summing the ranges, the Board shall first establish the crime category, history risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.

(4) The Board may, by four (4) concurring votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.

(5) The following factors may be considered by the Board in determining whether or not to sum the ranges:

(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:

(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;

(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;

(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.

(D) When the ranges or minimum sentences, if any, are sufficient sanction without summing the ranges.

(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:

(A) When the history/risk score for the principal range is three (3) or more;

(B) When the crimes are part of the same criminal episode;

(C) When minimum sentences exceed the range of the principal range;

(D) When sufficient mitigation is present (refer to Exhibit E).

(6) When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board with or without a recommendation.

(7) If the panel finds that the prison term established according to matrix guidelines is inadequate because of aggravation or mitigation, it shall secure a third vote or refer the matter to the full Board for consideration whichever is appropriate.

(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation:

(a) If a single consecutive sentence is imposed, the prison term shall be established as for a single new sentence and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment;

(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences;

(c) Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.

(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the full Board to consider treating the ranges concurrently.

(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.

[ED. NOTE: The Exhibit referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from the adopting agency.]

Stat.Auth.: ORS Ch. 144  
Hist: 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Effect of Judicial Minimum Sentences on Prison Terms Under ORS 144.110

255-35-023 (1) The Board shall not release a prisoner before a judicially imposed minimum prison term sentence has been served except when at least four members of the Board find that:

(a) The court applied the guideline rules incorrectly; or

(b) The Board has information not available to the court at the time of sentencing; or

(c) The court's findings, though technically correct, lead to an inequitable result.

**FILED**  
JUL 24 1987  
BARBARA ROBERTS  
SECRETARY OF STATE

**CERTIFICATE AND ORDER**  
for  
**FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Board of Parole on July 24, 1987 to become effective \_\_\_\_\_  
(Agency) (Date)  
July 24, 1987  
(Date)

The within matter having come before the Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

	PERM. <input type="checkbox"/>	or	TEMP. <input checked="" type="checkbox"/>
Adopted: (New Rules)	_____		
Amended: (Existing Rules)	<u>255-35-022</u>		
Suspended: (Temporary Only)	_____		
Repealed: (Existing Rules)	_____		

*per Sec. of  
St. This  
cover not  
necessary  
connection  
has back to  
July 21, 1987  
filing.*

**RECEIVED**  
JUL 24 1987  
LEGISLATIVE COUNSEL'S  
OFFICE

as Administrative Rules of the Board of Parole  
(Agency)

DATED this 24th day of July, 1987

By: [Signature]  
(Authorized Signer)  
Title: Chairman, Board of Parole

Statutory Authority: ORS 144.785, ORS Chap. 144.

Subject Matter: Consecutive Sentences, Board findings on summing and unsumming sentences.  
These amendments were incorrectly recinded on July 21, 1987.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: April Lackey, Georgina Dews Phone: 378-2334

July 28, 1987

To: All Interested Persons

Fr: Georgina Dews, Law Clerk

G.R.D.

Re: Administrative Rules, 255-35-005 and 255-35-022.

On June 18, 1987, the Board adopted amendments to rules 255-35-005 and 255-35-022. These amendments were adopted to comply with an Attorney General Opinion which held that base ranges could not be used to compute matrix ranges for inmates with consecutive sentences.

On July 11, 1987, the Governor signed HB 3384 which altered the Board's statutory authority. HB 3384 allows for the use of base ranges in almost all instances. As a result, on July 21, 1987, the Board rescinded the amendments adopted on June 18, 1987.

However, only a portion of the amendments should have been rescinded. The filing dated July 21, 1987, was corrected by the Secretary of State's office, and the amendments which were retained and are still in effect are attached to this memo.

If you have any questions on this matter, please contact the Board.

GD/  
Encls.

Consecutive Sentences: Effect of Consecutive Sentences on Establishing a Prison Term

255-35-022 (1) When consecutive sentences have been imposed, a crime severity rating, history risk score and a matrix range shall be assigned for each crime.

(2) The term of imprisonment may be subject to variations established in accordance with OAR 255-35-035 and Exhibit D.

(3) [(2)] The Board shall consider the summed ranges as a single unified range. [Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum].

(4) [(3)] In summing the ranges, the Board shall first establish the crime category, history risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.

(5) [(4)] The Board may, by four (4) affirmative [concurring] votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.

(6) [(5)] The following factors are [maybe] considered by the Board in determining whether or not to sum the ranges:

(a) consecutive sentences are not appropriate penalties for the criminal offenses involved; and

(b) the combined terms of imprisonment are not necessary to protect the community security.

[(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:]

[(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;]

[(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;]

[(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.]

[(D) When the ranges or minimum sentences, if any, are sufficient sanction without summing the ranges.]

[(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:]

[(A) When the history/risk score for the principal range is three (3) or more;]

[(B) When the crimes are part of the same criminal episode;]

[(C) When minimum sentences exceed the range of the principal range;]

[(D) When sufficient mitigation is present (refer to Exhibit E).]

(7) [(6)] When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board, [with or without a recommendation.]

(8) [(7)] If the panel finds that the matrix range [prison term established according to matrix guidelines] is inadequate to establish a prison term based upon findings [because] of [the] aggravation or mitigation, it shall secure a third vote or refer the matter to the Full Board, [for consideration whichever is appropriate.]

[(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation.]

(9) [(a)] When additional [If a single] consecutive sentences are [is] imposed, the prison term shall be established as for a single new sentence. [and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment.]

[(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences;]

(A) When a sentence is imposed consecutively to a sentence on which parole has been granted, the matrix range shall be assigned as for a single new sentence.

(b) [(c)] Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.

[(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the Full Board to consider treating the ranges concurrently.]

[(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.]

July 28, 1987

To: All Interested Persons

Fr: Georgina Dews, Law Clerk

*G.R.D.*

Re: Administrative Rules, 255-35-005 and 255-35-022.

On June 18, 1987, the Board adopted amendments to rules 255-35-005 and 255-35-022. These amendments were adopted to comply with an Attorney General Opinion which held that base ranges could not be used to compute matrix ranges for inmates with consecutive sentences.

On July 11, 1987, the Governor signed HB 3384 which altered the Board's statutory authority. HB 3384 allows for the use of base ranges in almost all instances. As a result, on July 21, 1987, the Board rescinded the amendments adopted on June 18, 1987.

However, only a portion of the amendments should have been rescinded. The filing dated July 21, 1987, was corrected by the Secretary of State's office, and the amendments which were retained and are still in effect are attached to this memo.

If you have any questions on this matter, please contact the Board.

GD/  
Encls.

Consecutive Sentences: Effect of Consecutive Sentences on Establishing a Prison Term

255-35-022 (1) When consecutive sentences have been imposed, a crime severity rating, history risk score and a matrix range shall be assigned for each crime.

(2) The term of imprisonment may be subject to variations established in accordance with OAR 255-35-035 and Exhibit D.

(3) [(2)] The Board shall consider the summed ranges as a single unified range. [Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum].

(4) [(3)] In summing the ranges, the Board shall first establish the crime category, history risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.

(5) [(4)] The Board may, by four (4) affirmative [concurring] votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.

(6) [(5)] The following factors are [maybe] considered by the Board in determining whether or not to sum the ranges:

(a) consecutive sentences are not appropriate penalties for the criminal offenses involved; and

(b) the combined terms of imprisonment are not necessary to protect the community security.

[(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:]

[(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;]

[(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;]

[(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.]

[(D) When the ranges or minimum sentences, if any, are sufficient sanction without summing the ranges.]

[(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:]

[(A) When the history/risk score for the principal range is three (3) or more:]

[(B) When the crimes are part of the same criminal episode:]

[(C) When minimum sentences exceed the range of the principal range:]

[(D) When sufficient mitigation is present (refer to Exhibit E).]

(2) [(6)] When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board, \_\_ [with or without a recommendation.]

(8) [(7)] If the panel finds that the matrix range [prison term established according to matrix guidelines] is inadequate to establish a prison term based upon findings [because] of [the] aggravation or mitigation, it shall secure a third vote or refer the matter to the Full Board, \_\_ [for consideration whichever is appropriate.]

[(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation.]

(9) [(a)] When additional [If a single] consecutive sentence(s) are [is] imposed, the prison term shall be established as for a single new sentence. [and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment.]

[(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences:]

(a) When a sentence is imposed consecutively to a sentence on which parole has been granted, the matrix range shall be assigned as for a single new sentence.

(b) [(c)] Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.

[(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the Full Board to consider treating the ranges concurrently.]

[(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.]

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

FILED  
DEC 11 1987  
STATE OF OREGON  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
The Board of Parole on Dec. 7, 1987 to become effective \_\_\_\_\_  
(Agency) (Date)

Dec. 14, 1987  
(Date)

The within matter having come before the The Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: Aug 1, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted:  
(New Rules)

\_\_\_\_\_ RECEIVED  
DEC 11 1987

Amended:  
(Existing Rules)

255-35-023 LEGISLATIVE COUNSEL'S OFFICE

Depended:  
(Temporary Only)

\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_

as Administrative Rules of the The Board of Parole (Agency)

DATED this 11th day of December, 19 87

By: [Signature]  
(Authorized Signer)  
Title: Crawman S

Statutory Authority: ORS 144.785, ORS Chapter 144.

Subject Matter: Consecutive sentences: overriding consecutive minimums and setting below the unified matrix range.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the matter of the Amending  
of the Rule Governing the Ef-  
fect of Judicial Minimum Sen-  
tences on Prison Terms Under  
ORS 144.110.

)  
)  
)  
)  
)

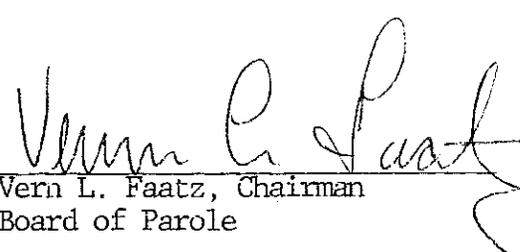
STATEMENT OF JUSTIFICATION

The Board of Parole is permanently amending the above named rule  
in order to comply with two Court of Appeals Decisions.

- (a) Statutory Authority : ORS 144.785, ORS Chap. 144.
- (b) Need for Rule : The rule is being permanently  
amended to comply with two Court  
of Appeals Decisions.
- (c) Documents Relied Upon : Steven Hill v. Board of Parole,  
CA #A35940, and Franklin D. Roof  
v. Board of Parole, CA #A41919.

Date

12-11-87

  
Vern L. Faatz, Chairman  
Board of Parole

FISCAL ANALYSIS OF RULE  
PER ORS 183.335

<u>Effect on Revenue (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

<u>Effect on Expenditures (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

Organizational Impact:

None

Positions:

All staff required to administer the Board of Parole's Administrative Rules have been provided by the Legislature and are contained in the present Parole Board's budget.

Economic Impact:

None

Reference for Data and Methods Used RE Above

Parole Board budget

Prepared by: Georgina Dews Agency: Board of Parole

Title: Law Clerk Date: Dec. 10, 1987

Effect of Judicial Minimum Sentences on Prison Terms Under ORS  
144.110; Consecutive Minimum Sentences  
255-35-023

(1) The Board shall not release a prisoner on parole until  
[before] a judicially imposed minimum prison term has been  
served, except upon the affirmative vote of four members who  
have found [when at least four members of the Board find]  
that:

(a) the minimum term is not an appropriate penalty for the  
criminal offense; and [The court applied the guideline  
rules incorrectly; or]

(b) the minimum term is not necessary to protect the public.  
[The Board has information not available to the court at  
the time of sentencing; or]

[(c) The court's findings, though technically correct, lead  
to an inequitable result.]

(2) If at least four members of the Board have made the findings  
listed in subsection (1) of this section, The Board shall  
establish a prison term using the guideline range and the  
standard variations allowed.

(3) When there are consecutive minimum sentences, and the Board  
finds that the combined minimums are not appropriate  
penalties for the criminal offenses involved, and are not  
necessary to protect community security, the Board, by four  
concurring votes, may override one or more of the judicially  
imposed minimums and set a prison term which is less than the  
sum of the minimum terms.

(4) [(2)] The Board shall set a parole release date in accordance  
with OAR 255-35-013, and shall state the facts and reasons  
for its actions. [The Board shall state the facts and reasons  
for its actions and it shall then inform the sentencing court  
of its decisions and reasons, the Board shall the set a  
parole release date in accordance with OAR 255-35-013.]

DEC 14 1987

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the The Board of Parole on Dec. 14, 1987 to become effective Dec. 16 1987  
(Agency) (Date) (Date)

The within matter having come before the The Board of Parole after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: July 1, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: (New Rules) \_\_\_\_\_

Amended: (Existing Rules) 255-35-022

RECEIVED  
DEC 16 1987

Suspended: (Temporary Only) \_\_\_\_\_  
LEGISLATIVE COUNSEL'S OFFICE

Repealed: (Existing Rules) \_\_\_\_\_

as Administrative Rules of the The Board of Parole  
(Agency)

DATED this 15<sup>th</sup> day of December, 19 87

By: Vern Laach  
(Authorized Signer)

Title: Chairman, Board of Parole

Statutory Authority: ORS 144.785, ORS Chap. 144.

Subject Matter: Consecutive Sentences; Board findings on summing and unsumming sentences.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

Consecutive Sentences: Effect of Consecutive Sentences on  
Establishing a Prison Term  
255-35-022

- (1) When consecutive sentences have been imposed, a crime severity rating, history/risk score and a matrix range shall be assigned for each crime.
- (2) The term of imprisonment may be subject to variations established in accordance with OAR 255-35-035 and Exhibit D.
- (3) [(2)] The Board shall consider the summed ranges as a single unified range. [Any minimum sentences imposed in conjunction with consecutive terms shall be considered a single unified minimum.]
- (4) [(3)] In summing the ranges, the Board shall first establish the crime category, history/risk score and appropriate range for the principal crime. Subordinate ranges will then be established by taking each consecutive crime and establishing the applicable crime category and base range. The unified range will be determined by adding the base range for each subordinate crime to the principal range.
- (5) [(4)] The Board may, by four (4) [concurring] affirmative votes, choose to unsum one (1) or all of the ranges. Once unsummed, the Board will treat one or more consecutive sentences as concurrent sentences.
- (6) [(5)] The following factors [may be] are considered by the Board in determining whether or not to unsum the ranges:
  - (a) consecutive sentences are not appropriate penalties for the criminal offenses involved; and
  - (b) the combined terms of imprisonment are not necessary to protect the community security.

[(a) The crime category is 1, 2, 3, or 4 and one (1) or more of the following is applicable:]

[(A) When the extent of the criminal history and the adequacy of the history/risk score, fails to appropriately reflect the criminal history of the offender;]

[(B) When the crimes are part of a crime spree that is uncharacteristic of the offender;]

- [(C) When mitigation is present or the aggravation does not warrant summing of one (1) or more ranges.]
- [(D) When the ranges or minimum sentences sentences, if any, are sufficient sanctions without summing the ranges.]
- [(b) The crime category is 5, 6, or 7 and one (1) or more of the following is applicable:]
  - [(A) When the history/risk score for the principal range is three (3) or more;]
  - [(B) When the crimes are part of the same criminal episode;]
  - [(C) When minimum sentences exceed the range of the principal range;]
  - [(D) When sufficient mitigation is present (refer to Exhibit E).]
- (7) [(6)] When a two-member panel recommends that the Board choose to unsum one (1) or all the ranges, the case will be referred to the Full Board. [with or without a recommendation.]
- (8) [(7)] If the panel finds that the matrix range [prison term established according to matrix guidelines] is inadequate to establish a prison term based upon findings [because] of [the] aggravation or mitigation, it shall secure a third vote or refer the matter to the Full Board. [for consideration whichever is appropriate.]
- [(8) When a sentence has been imposed consecutive to one already being served by a parolee, the range for the first sentence shall be the time served prior to revocation.]
- (9) [(a)] When additional [If a single] consecutive sentence(s) are [is] imposed, the prison term shall be established as for a single new sentence. [and the provisions of this rule shall not apply. The Board may consider it an aggravating factor if a new sentence is imposed consecutively to a parole violation commitment.]
- (a) When a sentence is imposed consecutively to a sentence on which parole has been granted, the matrix range shall be assigned as for a single new sentence.

[(b) If more than one sentence is imposed consecutively, the provisions of this rule shall be followed as to all new sentences;]

(b) [(c)] Minimum sentences will be considered separately under the provisions of OAR 255-35-023 and 255-35-024.

[(9) Notwithstanding the above, if the sum of the ranges exceeds twice the principal term and standard variation established for the principal crime, the case shall be referred to the Full Board to consider treating the ranges concurrently.]

[(10) Aggravation for consecutive penalties shall increase with each successive range that is imposed consecutively.]

SEP 16 1987

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

The Board of Parole \_\_\_\_\_ on Oct. 26, 1987 and \_\_\_\_\_ to become effective \_\_\_\_\_  
(Agency) Nov. 16, 1987

Dec. 16 1987  
(Date)

The within matter having come before the The Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: Aug. 15, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

Adopted: 255-92-005, 255-92-010, 255-92-020, 25'  
(New Rules)

255-92-030, 255-92-035, 255-92-040, E

Amended: \_\_\_\_\_  
(Existing Rules)

Suspended: \_\_\_\_\_  
(Temporary Only)

Repealed: \_\_\_\_\_  
(Existing Rules)

as Administrative Rules of the The Board of Parole \_\_\_\_\_  
(Agency)

DATED this 15<sup>th</sup> day of December, 19 87

By: Vern Laab  
(Authorized Signer)

Title: Chairman, Board of Parole

Statutory Authority: Ballot Measure 10, passed Nov. 4, 1987, effective Dec. 4, 1987.

Subject Matter: Parole Supervision under Ballot Measure 10.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Iwa Clerk Phone: 378-2334

DIVISION 92

Parole Supervision Under BM10

Application of Division 92  
255-92-005

Division 92 applies to parole supervision for all prisoners who committed crimes on or after December 4, 1986. (See Ballot Measure 10, passed November 4, 1986.)

Definitions  
255-92-010

- (1) "Active Supervision": Supervision requiring contact and monitoring by the supervising officer to assure continued compliance with the conditions of parole.
- (2) "Active Supervision" shall not include:
  - (a) the period of confinement in local, state, or federal correctional facilities during the parole;
  - (b) the period of time between the suspension of parole and the date parole is continued; and
  - (c) inactive parole.
- (3) "Exemplary Behavior": Behavior which is consistent with the conditions of parole.
- (4) "Inactive Parole" includes:
  - (a) general parole conditions;
  - (b) no supervision by a parole officer;
  - (c) no parole fees; and
  - (d) name and status maintained on the LEDS and EPR computer systems.

Duration of Parole  
255-92-015

- (1) Parole shall extend the entire term of a prisoner's sentence.
- (2) Notwithstanding subsection (1) of this section, active supervision on parole may be discontinued after three years, if the Board finds that:
  - (a) the parolee does not constitute a threat to the parolee or society;

- (b) the parolee's behavior has been exemplary; and
- (c) any restitution owed has been paid.
- (3) When active parole supervision is discontinued, the parolee shall be placed on inactive parole. However, this subsection shall not prohibit the Board from reinstating active parole supervision.

Period of Active Supervision; Execeptions  
255-92-020

- (1) The minimum period of active supervision on parole shall be the length of the prisoner's sentence or three years, whichever is shorter.
- (2) Notwithstanding subsection (1) of this section, a parolee will only be removed from active supervision if the Board finds that the parolee has satisfied the provisions of OAR 255-92-015 (a),(b) and (c).
- (3) During parole violation proceedings, the period of active supervision is suspended and the Board shall retain jurisdiction over the parolee until the proceedings are resolved.
- (4) The Board may reinstate a parole on active supervision under the provisions of OAR 255-92-040.

Parole Summary; Active Supervision Review  
255-92-025

- (1) Within fifteen (15) days after the parolee has completed a period of active supervision established by the Board, the supervising officer shall send to the Board a parole summary. The parole summary shall contain:
  - (a) an evaluation of the parolee's behavior;
  - (b) an update on the status of the parolee's restitution obligation, if any; and
  - (c) a recommendation that the parolee be removed from active supervision; or
  - (d) a recommendation that the parolee be continued on active supervision.
- (2) If the supervising officer recommends that active supervision be continued, supporting reasons for this recommendation shall be included in the parole summary.

(3) As soon as the parole summary is received by the Board, any three (3) Board members will conduct an active supervision review by administrative file pass to examine the parolee's record on active supervision.

Continued Active Supervision; Procedure  
255-92-030

When continued active supervision is recommended by the supervising officer, the Board shall determine at the active supervision review if a continuance is appropriate. If the Board decides that continuing active supervision is appropriate, the Board shall:

- (1) use the guidelines set forth in Exhibit L to establish the length of the parolee's next period of active supervision; and
- (2) notify the parolee of its decision, the length of the parolee's next period active supervision, and the reasons for continuing active supervision.

Removal From Active Supervision; Procedure  
255-92-035

- (1) When the Board decides to remove a parolee from active supervision, the Board shall:
  - (a) delete any special conditions which the parolee has been required to follow; and
  - (b) issue a new parole order certifying inactive status.
- (2) A parolee shall be considered to be on inactive parole as of the date the parole order certifying inactive status is signed by the Board.

Bases for Reinstating Active Supervision; Procedure  
255-92-040

- (1) Active supervision may be reinstated for the following reasons:
  - (a) failure to abide by the general conditions of parole; or
  - (b) inactive parole is no longer in the best interests of the parolee or society.

- (2) When the Board receives information indicating that reinstatement on active parole supervision may be warranted pursuant to subsection (1) of this section, the Board shall review the parolee's conduct by administrative file pass to decide whether or not to cite the parolee to a show cause hearing.
- (3) After the show cause hearing, the Board shall notify the parolee of its decision. If the Board decides to reinstate active parole supervision, the Board shall also notify the parolee of the length of the parolee's next period of active supervision, and the reasons for reinstating active supervision.
- (4) Show cause hearings under this section shall be conducted under the same procedures as parole revocation hearings in Division 75.
- (5) If a parolee is on inactive parole and parole is revoked following a parole revocation hearing, in addition to any other sanctions imposed by the Board, the parolee will be reinstated on active supervision. The new period of active supervision will be set at the prisoner's future disposition hearing.
- (6) If a parolee is on active parole and parole is revoked following a parole revocation hearing, in addition to any other sanctions imposed by the Board, the parolee will be reinstated on active supervision. The new period of active supervision will be set at the prisoner's future disposition hearing.
- (7) The new period of active supervision under this section shall be determined pursuant to the guidelines set forth in Exhibit L.

EXHIBIT L

Guidelines for Reviewing Active Supervision  
Under Division 92  
(shown in months)

---

<u>Crime Severity Rating</u>	<u>Criminal History/Risk Assessment Score</u>			
	11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
Category 1	06	06	06	12
Category 2	06	06	12	12
Category 3	06	12	12	18
Category 4	12	12	18	18
Category 5	12	18	18	24
Category 6	18	18	24	24
Category 7	24	24	24	24

---

These are only guidelines. If three members of the Board vote to go outside the guidelines, the period of active supervision shall be any time period determined by the Board.

RECEIVED

MAR 11 4 40 PM '88

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_  
Board of Parole \_\_\_\_\_ on March 7, 1988 \_\_\_\_\_ to become effective \_\_\_\_\_

March 14, 1988  
(Date)

The within matter having come before the \_\_\_\_\_ Board of Parole \_\_\_\_\_ after  
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

RECEIVED

MAR 11 1988

PERM.  or TEMP.

Adopted: (New Rules) \_\_\_\_\_ 255-75-004, 75-098. \_\_\_\_\_  
LEGISLATIVE COUNSEL'S OFFICE

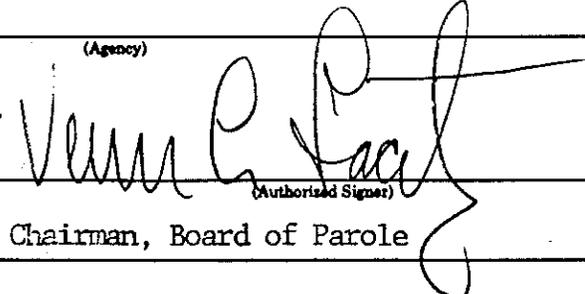
Amended: (Existing Rules) \_\_\_\_\_ 255-75-001, 75-002, 75-003, 75-005, 75-006, 75-007, 75-015, 75-020,  
75-026, 75-030, 75-031, 75-035, 75-036, 75-042, 75-045, 75-046, 75-055,

Amended: (Temporary Only) \_\_\_\_\_ 75-056, 75-065, 75-070, 75-075, 75-078, 75-080, 75-085, 75-090, 75-096.  
None.

Repealed: (Existing Rules) \_\_\_\_\_ 255-75-076. \_\_\_\_\_

as Administrative Rules of the \_\_\_\_\_ Board of Parole \_\_\_\_\_  
(Agency)

DATED this 9<sup>th</sup> day of March, 1988

By:   
(Authorized Signer)  
Title: Chairman, Board of Parole

Statutory Authority: ORS 144.310 - 144.390. ORS Chap. 144.

Subject Matter: Parole Revocation Procedures.

Statement of Need Attached:  Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

RECEIVED

MAR 11 4 40 PM '88

BARBARA ROBERTS  
SECRETARY OF STATE

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Amending )  
of the Rules Governing Parole ) STATEMENT OF JUSTIFICATION  
Revocation Procedures.

The Board of Parole is temporarily amending the above named rules to assure that its procedures for revoking parole comply with statute and the advice of the Attorney General's Office. Failure to promptly amend these rules will result in the use of improper procedures for revoking parole. The use of improper procedures will allow some parolees to continue on parole when they should be revoked and some parolees will be revoked when they should remain on parole, thereby endangering the public and raising the possibility of liability for the Board. The Board finds that these factors will result in serious prejudice to the public interest.

(a) Statutory Authority : ORS 144.310 - 144.390,  
ORS Chap. 144.

(b) Need for Rule : Theses rules are being temporarily adopted so that the Board's procedures for revoking parole comply with statute.

(c) Documents Relied Upon : ORS 144.310 - 144.390.

Date

March 9, 1988

Vern L. Faatz  
Vern L. Faatz, Chairman  
Board of Parole

DIVISION 75

PROCEDURES FOR REVOCATION OF PAROLE

Definitions  
255-75-001

- (1) "Active Community [Parole] Supervision": An uninterrupted period of at least six months [S]supervision in the community, requiring regular [periodic] contact and monitoring by the supervising officer to assure that the conditions of parole are being met, that the parolee has committed no new crimes and to assure repayment of restitution, if required.
- (2) "Parole": A conditional release from a state correctional facility into the community.
- [(2) "Active Supervision" will not include:
- (a) Period of confinement in local, state, or federal correctional facilities during the parole.
  - (b) The period of time between suspension of parole and the date parole is reinstated.]
- [(3) "Major Technical Violation": A violation of parole condition involving] the possession of a weapon or firearm, absconding supervision by leaving the State of Oregon without permission, a new law violation not resulting in a new felony sentence, or a finding pursuant to a hearing conducted under Division 75 that new criminal activity has occurred which constitute a Class "A" misdemeanor or felony.]
- [(4) "Minor Technical Violation": "Violations" as described by ORS 161.565 and 161.575 and all parole violations except major technical violations and law violations.]

Suspension of Parole; Citation  
244-75-002

When the Board is informed of reasonable grounds to believe that a person has violated the conditions of parole, or that parole is no longer in the best interests of the parolee or the community, and that the revocation of parole or an extension of supervised parole [the conditional discharge date] may be justified, the Board may:

- (1) [S] suspend parole and order the parolee arrested and detained pending a parole violation hearing; or

- (2) [(I) issue a citation to show cause why parole should not be revoked [appear at a parole revocation hearing,] without first suspending parole or ordering detention. The citation may be issued [effected] by the Board or the Board may expressly authorize its designated representative to issue a citation.

Criteria for Allowing Parolee to Remain in Community Pending Hearing  
255-75-003

In determining whether to allow a parolee to remain in the community pending the parole violation hearing, the Board may consider:

- (1) [(T) the seriousness of the allegations and the risk to the parolee or the community;
- (2) [(T) the likelihood of the parolee absconding or failing to appear at the hearing;
- (3) [(T) the availability of bail (when applicable);
- (4) [(T) the availability of resources in the community such as residence [and/] or employment; or
- (5) [(A) any recommendation by the parole officer.

Guidelines for "Best Interest" Return  
255-75-004

Revocation of parole when it is not "in my best interest or in the best interest of society" shall refer to the following situations:

- (1) The parolee is suffering from an emotional or psychological disturbance which makes the parolee dangerous to self or others if left in the community. The emotional or psychological disturbance may be indicated but not limited to threatening behavior in the form of:
  - (a) showing a present capacity to carry out any statements or threats of violence against the parolee or the community; or
  - (b) The substantial duplication of circumstances and conduct which led to the initial incarceration;
- (2) The parolee's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program, or other treatment programs);

- (3) Upon release on parole an existing probation is revoked, resulting in the prisoner's return to the custody of the Department of Corrections for criminal activity which did not occur while on parole; or
- (4) The prisoner receives a new commitment to the custody of the Department of Corrections for criminal activity which did not occur while on parole.

Hearing Requirement: Procedure  
255-75-005

- (1) Before the Board can revoke parole, [it shall conduct] a parole violation hearing shall be conducted.
- (2) The hearing shall be held within a reasonable time after the Board is notified of the alleged violations and reasonably near the place of the alleged violation or the place of confinement.
- (3) Before a Hearings Officer can hold an out of custody hearing, the parole officer responsible for supervising the parolee must obtain a citation to appear from the Board.
- (4) For an in custody parole revocation hearing, the parole officer must request a non bailable suspend and detain warrant from the Board.
- (5) A citation to appear or a suspend and detain warrant requires three affirmative votes by the Board.

Method of Hearing  
255-75-006

Hearings may [shall] be conducted by teleconference. [telephone call. Exceptions will be made in the following situations by the hearings officer when:] Person to person hearings shall be conducted by a Hearings Officer in the following situations:

- (1) [T] the alleged violations are contested and the parolee or the parolee's attorney shows that the credibility of the witness, including the observation of [his/her] the witness's demeanor would be necessary; [.]
- (2) [P] physical exhibits are to be part of the record and viewing [of] the exhibits would be essential; [.]
- (3) [T] there are unusual circumstances not covered by this section, to be determined at the discretion of the Hearings Officer; or [.]

- (4) [W] when circumstances dictate that hearings cannot be conducted by [telephone] teleconference [call] (i.e., no telephone available for hearings in the confining facility).

[Hearings Officer/]Designated Representative to Conduct Hearing  
255-75-007

- (1) The Board's [or its] designated representative shall conduct the parole revocation hearing.
- (2) "Designated representative" shall include those persons designated by the Department of Corrections or the Board of Parole [Division] as Hearings Officers.

Locations of Hearing

255-75-008

(deleted)

Board Action Upon Notification of Alleged Parole Violation:  
Criteria for: Release of Parolee Pending Hearing

255-75-010

(deleted)

Procedures When Parolee is in Another Jurisdiction: Return of Parolee

255-75-015

- (1) The Board may suspend [a] parole and order the parolee's return to prison in Oregon without first conducting a hearing when:
- (a) [T] the parolee has left the state to which the parolee [he/she] was paroled without permission, and is in custody in another jurisdiction;
- (b) [T] the parolee is in [federal] custody in another correctional facility;
- (c) [T] the parolee has absconded from supervision and the parolee's [his/her] whereabouts are unknown; or
- (d) [T] the parolee has been convicted of a new crime [in another jurisdiction].
- (2) After the parolee is returned to prison in Oregon, the parolee [he/she] shall be given a parole revocation hearing [according to the provisions of this Division].

Rights of a Parolee at a Formal Hearing  
255-75-020

- (1) The parolee shall be provided with a written notice of the hearing at least three (3) [calendar] working days prior to the hearing.
- (2) The hearing notice will include:
  - (a) a Notice of Rights;
  - (b) [W] a written statement of alleged violations; and
  - (c) [A] any documents or evidence which form the basis of the alleged violations.
- (3) The parolee may elect to waive the three working day [3-day] notification period prior to the hearing and begin the hearing immediately, [with the hearings officer taping the parolee's verbal statement.]
- (4) The Hearings Officer shall tape the parolee's verbal statement waiving the three working day notification period.

Waiver of Hearing  
255-75-026

- (1) In all cases, the parolee may waive the right to a hearing by signing a Notice of Rights form.
- (2) When the purpose of a parole hearing is to consider a parole violation, the [W]waiver of the right to a hearing acknowledges that there has been a violation of the conditions of parole in whole or in part.
- (3) When the purpose of the hearing is to modify parole conditions or to consider extending active community supervision, the waiver of the hearing indicates acceptance of the modifications.
- (4) If the parolee waives the right to a hearing, the parolee [he/she] may offer a written or verbal statement pertaining to the violation. [:]
- (5) [(a)] The [W] written waiver of the right to a hearing [statement] must be submitted to the Parole Board's [or its] designated representative within five (5) days after the parolee has waived [r of] the hearing.
- (6) [(b)] Any statement made to the designated representative at the time of waiver must be tape recorded.

(7) [(4)] If the parolee waives the right to a hearing, the [h] Hearings [o] Officer will submit to the Parole Board the following:

- (a) a Notice of Rights form;
- (b) [A] any parolee statements;
- (c) the Hearing Report Summary; and
- (d) [A] any supporting information.

Board Rejection of Waiver  
255-75-030

If the Board is not satisfied that the waiver was made knowingly and intelligently or if it believes more information is necessary before making its decision, it may order a new hearing.

Hearings Process  
255-75-031

- (1) The parole officer will present information at the hearing and arrange for the presence of witnesses for the state [/ county,] and present [/or] evidence, unless the hearing is waived.
- (2) The [h] Hearings [o] Officer will make a tape recording of the hearing.

Representation/Determination of Ability to Pay Attorney Fees  
255-75-035

[In all cases, the parolee is entitled to:]

- [(1) Board-appointed counsel at parolee's request to represent indigent parolee if the parolee makes a timely and colorable claim that:
  - (a) He/She has not committed the alleged violation;
  - (b) There are substantial complex mitigating circumstances which make revocation inappropriate even if violation is admitted or a matter of record ; or
  - (c) The parolee appears incapable of speaking effectively in his/her behalf.]
- [(2) Representation by an attorney at the parolee's own expense;]

- [(3) Upon completion of the violation hearing, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. In those instances where counsel is refused, the grounds for refusal shall be succinctly stated in the record. Where payment is approved, such payment shall not exceed \$150 per case.]
- (1) In all cases, the parolee is entitled to representation by an attorney at the parolee's own expense.
- (2) If the parolee is deemed indigent, and unable to pay for an attorney, the parolee may request to be represented by a Board appointed attorney if the parolee makes a timely and colorable claim that:
- (a) the parolee has not committed the alledged violation;
- (b) there are substantial or complex mitigating circumstances which make revocation inappropriate even if violation is admitted or a matter of record; or
- (c) the parolee appears incapable of representing himself/herself.
- (3) If a Board appointed attorney is requested by the parolee, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. Where payment is approved, such payment shall not exceed \$30 per hour and \$200 per case. Billing must be received within 90 days.
- (4) In those instances where counsel is refused by the parolee, the grounds for refusal shall be succinctly stated in the record.

Board Subpoenas: Witness or Documents  
255-75-036

- (1) Upon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Parole Board or [a] designated representative shall, or the Parole Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. [The p] Parolees will make their [his/her] own arrangements for presenting witnesses. In addition, the Board or its designated representative may subpoena documents when relevant.

- (2) Witnesses appearing under subpoena, other than the parties, state officers or employes, shall be reimbursed fees and mileage by the Parole Board as prescribed by law, provided the [h] Hearings [o] Officer certifies that the witness's testimony [of the witness] was relevant and material to the hearing.
- (3) The parolee may present witnesses who may have relevant information, and has the right to confront the [of confrontation of] persons or witnesses who have [has] presented [adverse] information against the parolee.
- (4) Confrontation of witnesses by the parolee may be denied if the [h] Hearings [o] Officer finds that confrontation would subject the witness to the risk of harm if the witness's [his/her] identity was disclosed.
- (5) [(4)] If confrontation of witnesses by the parolee is denied, the [h] Hearings [o] Officer shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Compelling Appearance of Witnesses: If Subpoena Requested; Board Motion; Failure to Obey  
255-75-040

The Board, or its designated representative or party requesting a subpoena, may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Probable Cause; Effect of Preliminary Hearing; Definition of Term; Deferral of Revocation Hearing  
255-75-042

- (1) Evidence received, [by and/] or the order of the court at the preliminary hearing may be used by the Board to establish that probable cause exists to believe that a violation of a condition of parole has occurred, [; and further, that]
- (2) [s] Should the parolee waive the right to a preliminary hearing, [such] the waiver shall [also] constitute a waiver of a hearing by the Board to determine whether there is a probable cause to believe that a violation of one or more of the conditions of parole has occurred.
- (3) "Probable Cause": a substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it. [shall be interpreted to mean a standard of proof lower than a preponderance (e.g., a reasonable belief that the violation did occur as opposed to proof by greater weight of the evidence).]

- (4) A finding of probable cause [Such findings] shall be used to support the Board's decision to suspend and detain a parolee charged with the commission of a new crime. The Board may then defer completion of a parole violation hearing until the trial is over [has been completed] and the Board is notified of the final disposition of the case.
- (5) [In no case, however, shall] Notwithstanding subsection (3) of this section, a deferral following a finding of probable cause may not be extended for a period greater than 120 [ninety (90)] days from the date of the preliminary hearing or waiver.

Evidence  
255-75-045

- (1) The following evidence may be received at a parole violation hearing:
- (a) [(1)O] oral testimony under oath;
  - (b) [(2)A] affidavits or other sworn statements;
- [(3) Evidence determined to be material, relevant, and reliable, regardless of its nature, including:]
- (c) [(a)L] letters;
  - (d) [(b)D] documents;
  - (e) [(c)R] reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole officers, doctors, psychologists, attorneys;
  - (f) [(d)U] uncertified copies of letters, documents, or reports shall be admissible in a parole violation hearing if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable; [.]
  - (g) [(4)E] evidence of criminal activity even when charges have been dismissed, not brought, or the parolee has been acquitted at trial; [.]
  - (h) [(5)H] hearsay evidence shall be admissible, however, hearsay cannot alone form the evidentiary basis for revocation if objection is raised. This provision shall not apply to certain recognized exceptions to the hearsay rule. For Board purposes, Federal rules 803, 804, and 805 shall be utilized in determining exceptions to the hearsay rule; or [.]

- (1) evidence determined to be material, relevant, and reliable, regardless of its nature.
- (2) [(6)] Upon the request of any party to the hearing, the Parole Board, or its designated representative, may issue a subpoena duces tecum upon a proper showing of relevant and reasonable scope of the documentary or [ / ] physical evidence being sought. The parolee may make the parolee's [his/her] own arrangements for presenting evidence.
- (3) [(7)] The [h] Hearings [o] Officer may exclude documents or [ / ] physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.
- (4) [(8)] The [h] Hearings [o] Officer may classify documents or [ / ] physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
- (5) [(9)] Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.
- (6) [(10)] When a witness is unavailable, the [his/her] statements may be received in the form of documentary evidence when the [h] Hearings [o] Officer determines at an in-camera hearing that good cause for non[-]disclosure exists and supporting evidence establishes the reliability of the absent witness's statement.

Postponement  
255-75-046

- (1) A hearing may be postponed by the [h] Hearings [o] Officer for good cause and for a reasonable period of time.
- (2) The criteria for "Good cause" includes, but is not limited to:
- (a) the [P] preparation of defense;
  - (b) [I] illness or unavailability of the parolee or other persons;
  - (c) [G] gathering of additional evidence; or
  - (d) [A] avoiding interference with an ongoing police investigation or pending prosecution.

Procedure for Receiving Evidence if Good Cause Exists Not to  
Require Confrontation or Disclosure of an Informat's Identity  
255-75-050  
(deleted)

Reopening Hearings for New Information; Criteria; Procedure  
255-75-055

- (1) After the completion of a parole violation hearing, and before a final decision, the Board may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.
- (2) The parolee shall be given notice of the decision to reopen the hearing and the new information to be considered<sup>[5]</sup>. The hearing shall conform to the procedures of this Division.

Hearings Record  
255-75-056

- (1) The hearings record shall include:
  - (a) a Hearings Report Summary; including tape of hearing;
  - [(b)] The tape recording will be sent to and retained by the Parole Board for two (2) years.]
  - (b) [(2)W] a written statement of alleged violations;
  - (c) [(3)S] supporting materials;
  - (d) [(4)] a Notice of Rights; and
  - (e) [(5)] the Order of Parole.
- (2) The tape recording used in subsection (1)(a) of this rule shall be sent to and retained by the Parole Board for two (2) years.

Record of Parole Revocation Hearing  
255-75-060  
(deleted)

Ten-Day Waiting Period for Parolee's Arguments and Exceptions  
255-75-065

- (1) Within a reasonable time after the hearing, the Hearings Officer's report shall be provided to the parolee.
- (2) Unless the right to respond is waived, the parolee shall have 10 days from the date the report is mailed to the parolee to make written exceptions and arguments to the report for the Board's consideration.
- (3) If the right to respond is waived, the waiver shall be included in the Hearings Officer's report to the Board.

Final Action by the Board: Procedure [Quorum to Decide/Final Order/Notice of Decision]  
255-75-070

- (1) The Board shall consider [the record,] the Hearings Officer's report, and exceptions and arguments. A majority [quorum] of the Board shall enter a decision, and the individual votes of the Board members shall be recorded in accordance with Exhibit K. The Board shall indicate the adopted [the] findings.
- (2) The Board may adopt or reject any or all the recommendations of the Hearings Officer. [When the recommendations are rejected the Board shall state the reasons for rejections].
- (3) [(2)] A copy of the final order of parole revocation shall be forwarded to the parolee with notice of the right to administrative and judicial review.

Parolees Convicted of a New Crime in Another Jurisdiction: Return: Jurisdictional Reinstatement  
255-75-075

If a parolee has violated [his/her] parole as a result of a conviction of a new crime in another jurisdiction and has been sentenced to a term in prison, the Board may:

- (1) [S] suspend parole and order the parolee returned to Oregon for a parole revocation hearing after serving the new sentence; or
- (2) [Reinstate] continue parole to the prison sentence in the other jurisdiction in order to consolidate jurisdiction over the parolee and allow the Oregon sentence to run concurrently. [Reinstatement] A continuance under these circumstances is not a recommendation for parole release.

[Designation of Parole Failure  
255-75-076]

[If the Board finds that a parolee has violated the conditions of parole but chooses to reinstate or continue parole, the reinstatement or continuation may be designated a parole failure.]

Parole Violator with New Prison Commitment; Action Required  
255-75-078

- (1) Parole violators [returned] with pending charges [a new prison commitment] shall be given a future disposition hearing within 120 days of the parolee's return to the institution followed by a prison term hearing in accordance with Division 30 of these rules.
- (2) A parole violator with a new conviction shall see the Board for the violation at the prison term hearing for the new conviction.
- (3) The following procedure shall apply to parole violators with new commitments which are concurrent to their parole violations:
  - (a) a future disposition hearing will be conducted and a sanction shall be imposed for the parole violation according to guidelines in rule 255-75-090; and
  - (b) the commencement date for the new commitment shall be the sentencing date for the new crime.
- (4) The following procedures shall apply to parole violators with new commitments which are consecutive to their parole violations:
  - (a) a future disposition hearing shall be conducted, and a parole release date shall be established on the violation according to the guidelines in rule 255-75-090 prior to the prison term hearing for the new commitment; and
  - (b) the commencement date for the new commitment shall be the parole release date established for the parole violation. or
- (5) Notwithstanding subsection (4) of this section, when the new commitment is consecutive to a parole violation, the panel or Full Board may treat the parole violation and the new commitment as if they were concurrent. The commencement date for the new commitment shall be the sentencing date for the new crime.

- (6) If the parolee is returned with a parole violation and a new sentence which is consecutive to the sentence for which the parolee was on parole, the commencement date for the new crime shall be the date parole was revoked, if so stated on the court order.

[Reinstatement] Continuance Based on Time Served: Necessary Findings by Board[;Effect on History/Risk Score]  
255-75-080

[(1)] If the Board finds that a parolee has committed a violation of parole conditions which is sufficiently serious to require a revocation hearing [of parole] and the time the parolee has spent in custody pending final action on the parole revocation hearing is an adequate punishment for the violation, the Board may [reinstate] continue parole.

[(2) Reinstatement of parole under this rule shall be counted as a parole failure in computing a criminal history risk assessment score under Rule 255-35-013.]

Authority of Revocation Panel to Set New Parole Release Date for Parole Violators  
255-75-082  
(deleted)

Parole Violators with No New Commitment:[/] Action Required  
255-75-085

- (1) Parole violators returned with no new prison commitment shall receive a future disposition hearing within [90] 120 days of the date of return to Department of Corrections [Division] custody.
- (2) The hearing shall follow the procedures of a prison term hearing as provided in Division 30 of these rules.
- (3) At the future disposition hearing, the Board may:
- (a) [S] set a new parole release date according to the guidelines in rule 255-75-090 [and choose not to give credit for statutory good time earned until suspension of parole]; or
  - (b) [D] deny further parole consideration, pursuant to ORS 144.390 [according to the guidelines in rule 255-75-090,] and [may]
  - (c) return all or part of the forfeited statutory good time [to which the prisoner is entitled].

Guidelines for Reparole [When No New Prison Commitment is Present]  
255-75-090

- (1) Parole violators [returned with no new prison commitment] shall be given a sanction [an additional prison term] within the following guidelines; [unless the Board finds aggravation [mitigation] or denies parole:]
  - (a) [(1)V] violations not involving a finding of new criminal activity, shall result in an additional term of [four] six to eight months unless the Board finds aggravation or denies parole; and [.]
  - (b) [(2)V] violations involving a finding of new criminal activity shall result in an additional term of eight to twelve months unless the Board finds aggravation, mitigation, denies parole.
  - (c) In establishing a sanction, the commencement date shall be the date of arrest for the parole violation which resulted in the revocation of parole.

Variation From Guidelines for Aggravation/Mitigation Permitted  
255-75-095

- (1) Variation from the terms set fourth in rule 255-75-090 (a), (b), is permitted if the Board finds aggravation or mitigation as shown in either Exhibit E or Exhibit H [G].
- (2) Variations from the terms set forth in rule 255-75-090 (a), (b) shall be those established in Division 35 of these rules and shown in Exhibit D.

Denial of Reparole Consideration  
255-75-096

- (1) The Board may deny reparole consideration and require the parole violator to serve to the statutory good time date. This action requires the affirmative vote of at least four voting members.
- (2) In cases where setting a parole violator within the guidelines set forth in rule 255-75-090 (a) and (b) would require the parole violator to serve to the end of the sentence, four votes are not required.

Restoration of Parole Violation Goodtime  
255-75-098

The Board may restore forfeited parole violation goodtime when:

- (1) there is no violation of parole and a recommendation to restore parole violation goodtime is received from the superintendent of the institution; or
- (2) parole is revoked on a best interest basis and there was no actual parole violation, and a recommendation to restore parole violation goodtime is received from the superintendent of the institution.

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

RECEIVED  
MAR 25 1 10 PM '88

DAVID W. ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Board of Parole on March 21, 1988 to become effective March 25, 1988

The within matter having come before the Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

RECEIVED

MAR 25 1988

PERM.  or TEMP.

LEGISLATIVE COUNCIL'S

Adopted:  
(New Rules)

Amended:  
(Existing Rules)

255-30-015

Temporarily Amended:  
(Temporary Only)

Repealed:  
(Existing Rules)

255-30-020

as Administrative Rules of the Board of Parole

DATED this 23rd day of March, 1988

By: *Vern L. East*  
(Authorized Signer)

Title: Chairman, Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Number of members required to attend hearings and to review a case in order to make a final decision.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

RECEIVED

MAR 25 1 16 PM '88

BARBARA ROBERTS  
SECRETARY OF STATE  
RECEIVED

BEFORE THE  
OREGON STATE BOARD OF PAROLE

MAR 25 1988

LEGISLATIVE COUNCILS

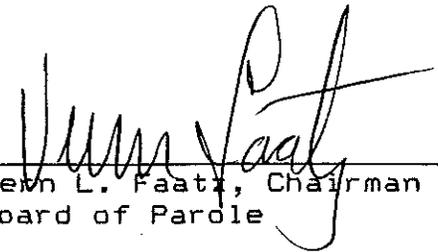
In the Matter of the Amending )  
of the Rules Governing the num- )  
ber of members required to attend )  
a hearing. )

STATEMENT OF JUSTIFICATION

The Board of Parole is temporarily amending and repealing the above named rules to so that hearings may be scheduled in a timely manner according to statute, and to clarify and streamline the Board's procedures. Failure to promptly amend these rules will result in delaying hearings beyond the statutory limit and may cause some inmates to be incarcerated for a longer period than required. This situation contributes to the overcrowding of the institutions, thereby endangering the public and raising the possibility of liability for the Board. The Board finds that these factors will result in serious prejudice to the public interest.

- (a) Statutory Authority : ORS Chap. 144.
- (b) Need for Rule : Theses rules are being temporarily adopted so that the Board may schedule hearings within the time limit required by statute, and to clarify and streamline the Board's procedures.
- (c) Documents Relied Upon : ORS Chap. 144. and the 1988 Criminal Code.

3/23/88  
Date \_\_\_\_\_

  
Vern L. Faatz, Chairman  
Board of Parole

[Panels: When a Two-Member Panel Conducts a Prison Term Hearing;] When a Full Board is Required; Procedures for Full Board Decision  
255-30-015

- (1) Except as provided in this rule, all prison term hearings shall be [heard] conducted by a panel of two voting members of the Board.
- (2) The following hearings may be conducted by a quorum of the Board, more votes may be necessary for a final decision:
  - (a) cases involving a prisoner sentenced to life imprisonment, to death, for murder, or for aggravated murder (review by the full membership of the Board);
  - (b) cases where the prisoner was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim (review by full membership of the Board);
  - (c) cases where the prisoner was sentenced under ORS 161.725 and 161.735 as a dangerous offender;
  - (d) cases where the minimum sentence imposed by a judge pursuant to ORS 144.110 exceeds the matrix range and the variations permitted a panel (review by at least four members of the Board);
  - (e) cases where an extension of more than two years in the prison term is recommended for misconduct;
  - (f) whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote (review by at least four members of the Board);
  - (g) whenever the panel recommends denying parole (review by at least four members of the Board);
  - (h) whenever a panel recommends a decision below a judicially set minimum sentence (review by at least four members of the Board);
  - (i) whenever a panel lacks a quorum and is unable to come to a unanimous decision to set a prisoner's prison term, and a second panel is assigned to hear the case, and no quorum occurs in the second panel; and
  - (j) whenever a panel recommends unsuming a unified range (review by at least four members of the Board).

(3) If a Board member is not present at a full Board hearing, and review is compelled by statute, rule, or the vote may affect the outcome of the hearing, the Board member shall vote administratively after reviewing the record of the hearing, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.

- [(2) The following cases shall be decided by the Full Board (i.e., all five voting members), according to the procedures in rule 255-30-020:]
- [(a) Any cases involving a prisoner sentenced to life imprisonment; convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim; sentenced under ORS 161.725 and 161.735 as a dangerous offender;]
  - [(b) Whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel or deny parole;]
  - [(c) Whenever a minimum sentence imposed by a judge pursuant to ORS 144.110 exceeds the applicable matrix guideline range in Exhibit C plus the maximum variation from the range shown in Exhibit D;]
  - [(d) Whenever a panel recommends a decision below a judicially set minimum sentence;]
  - [(e) Whenever an extension of a prison term due to institutional misconduct for more than one (1) year is recommended]

Procedures for Full Board Decisions  
255-30-020

[The following procedures shall apply to cases decided by the full board:]

- [(1) A hearing shall be conducted by [the] a Board with at least a quorum present when:]
- [(a) Setting a prison term for prisoners falling under subsection 255-30-015(2)(a);]
  - [(b) The Board considers denying parole, except when denial is because the guideline range exceeds the good time date on a sentence.]

[(c) Extending a prison term, in any case, for longer than one (1) year.]

[(2) Prisoners in custody in another jurisdiction may be heard by a conference call or returned to Oregon for the hearing.]

[(3) If a Board member is not present at a hearing, he/she shall vote after reviewing the record of the hearing.]

# NOTICE OF PROPOSED RULEMAKING

RECEIVED

MAR 17 8 11 AM '88

AGENCY: Board of Parole

BARBARA ROBERTS  
SECRETARY OF STATE  
Chapter 144

The above named agency gives notice that pursuant to the statutory authority of ORS

the following action is proposed:

ADOPT: 255-01-060, 255-05-005, 255-20-020, 255-25-030,  
255-30-023, 255-35-018, 255-35-021, 255-38-010,  
255-40-026, 255-40-028, 255-40-040, 255-50-013,  
255-50-025, 255-60-030, 255-70-015, 255-75-004,  
255-75-098, 255-75-100, 255-80-015.

AMEND: 255-01-005, 010, 016, 020, 255-10-005, 015,  
255-15-002, 005, 010, 015, 255-20-005, 010, 015,  
255-25-005, 010,  
255-30-010, 013, 015, 021, 025, 027, 035, 040, 055,  
255-32-010, 015, 025, 035, 040, 255-35-013, 016, 020, 025, 030,  
255-38-005, 255-40-005, 010, 020, 025, 035,  
255-50-005, 010, 015, 016, 255-60-006, 020,  
255-65-005, 015, 020, 255-70-001,  
255-75-002, 003, 005, 006, 007, 015, 020, 026, 030, 031, 035, 036, 04  
2, 045, 046, 055, 056, 065, 070, 075, 078, 080, 085, 090, 095, 096,  
255-80-005, 010, 255-90-002, 003, 010, 255-92-030, 040,  
255-95-005.

REPEAL: 255-10-010, 020, 255-15-020, 030, 255-25-015, 020, 025,  
255-30-005, 020, 030, 040, 050, 056,  
255-35-005, 010, 015, 024, 035, 255-65-010, 255-70-010,  
255-75-001, 076, 255-92-010.

SUMMARY: The rules are being revised to comply with statutory changes from the 1987 legislative session, and to clarify and streamline the Parole Board's procedures.

Interested persons may obtain copies or submit data or views concerning the proposed rulemaking by writing to the address below. Written comments, in order to be considered, must be received by not later than April 22, 1988.

AGENCY: Board of Parole

ADDRESS: 2575 Center St. NE, Salem OR 97310

ATTN: Georgina Dews, Law Clerk

PHONE: (503) 378-2334

If any interested person wishes to express data, views and arguments orally or in writing at a public hearing, the person must make written request for a public hearing and submit this request along with any written comments to the above address. Request for public hearing must be received within 15 days after publication of notice in the Bulletin of the Secretary of State from 10 or more persons or an association having not less than 10 members. If sufficient requests are received to hold a public hearing, notice of the date and time of the hearing will be provided.

Signature

Date

3/16/88

RECEIVED

MAR 17 8 11 AM '88

BARBARA BELERTS  
SECRETARY OF STATE

BEFORE THE  
OREGON STATE BOARD OF PAROLE

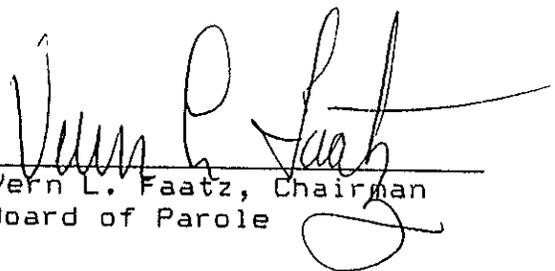
In the Matter of the Amending )  
of the Rules Governing the Board )  
of Parole.

STATEMENT OF JUSTIFICATION

The Board of Parole is permanently adopting, amending and  
repealing the above named rules to comply with statute and to  
clarify and streamline the Board's procedures.

- (a) Statutory Authority : ORS Chap. 144.
- (b) Need for Rule : These rules are being  
permanently adopted so  
that the Board's rules  
comply with statute, and  
to clarify and streamline  
the Board's procedures.
- (c) Documents Relied Upon : ORS Chap. 144. and the  
Board's 1985 Rules.

3-16-88  
Date

  
Vern L. Faatz, Chairman  
Board of Parole

FISCAL ANALYSIS OF RULE  
PER ORS 183.335

Administrative Rules, Division 1 through 95

<u>Effect on Revenue (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None
<u>Effect on Expenditures (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

Organizational Impact:

None

Positions:

All staff required to administer the Board of Parole's Administrative Rules have been provided by the Legislature and are contained in the present Parole Board biennium's budget.

Economic Impact:

None

Reference for Data and Methods Used RE Above

Parole Board Budget

Prepared by: Georgina Dews

Agency: Board of Parole

Title: Law Clerk

Date: March 16, 1988

CERTIFICATE AND ORDER for FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

RECEIVED

MAR 30 9 20 AM '88

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Board of Parole on March 28, 1988 to become effective April 4, 1988. BARBARA ROBERTS SECRETARY OF STATE

The within matter having come before the Board of Parole after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO [X] YES [ ] Date Published:

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

MAR 30 1988 LEGISLATIVE COUNCIL

Adopted: New Rules) PERM. [ ] or TEMP. [X] 255-40-026, 255-40-028, 255-40-040

Amended: Existing Rules) 255-40-005, 255-40-020, 255-40-025, 255-40-035

Suspended: Temporary Only)

Repealed: Existing Rules)

as Administrative Rules of the Board of Parole (Agency)

DATED this 29th day of March 19 88

By: Doug Dinsmore (Authorized Signer)

Title: Vice-Chair, Board of Parole

Statutory Authority: ORS 144.122, ORS Chap. 144.

Subject Matter: The rules are being amended due to a recent Ct. of Appeals decision in Jeldness v. Bd. of Parole, CA A45898, and to streamline the Board's procedures when reviewing cases.

Statement of Need Attached: [X] Fiscal Impact Attached: [ ]

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

RECEIVED

MAR 30 8 19 AM '88

BARBARA EDWARDS  
SECRETARY OF STATE

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Amending )  
of the Rules Governing Personal )  
Reviews and Reopening Cases. )

STATEMENT OF JUSTIFICATION

The Board of Parole is temporarily amending the above named rules due to the Court of Appeals decision in Jeldness v. Board of Parole, CA A45898, Filed March 9, 1988. Failure to promptly amend these rules will result in the release of some prisoners prior to the release dates established by the Board, and the incarceration of some inmates for a longer period than required, thereby endangering the public and raising the possibility of liability for the Board. The Board finds that these factors will result in serious prejudice to the public interest.

- (a) Statutory Authority : ORS 144.122, ORS Chap. 144.
- (b) Need for Rule : Theses rules are being temporarily amended due to the recent Ct. of Appeals decision in Jeldness v. Board of Parole, CA A 45898, Filed March 9, 1988, and to streamline the Board's procedures.
- (c) Documents Relied Upon : Jeldness v. Board of Parole, CA A45898, Filed March 9, 1988.

\_\_\_\_\_  
Date

Doug Dinsmore  
Douglas Dinsmore,  
Vice-Chair  
Board of Parole

DIVISION 40

REOPENING CASES, REVIEWS, AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-40-005

- (1) Personal reviews [shall] may be conducted every three years.[after the prisoner has served five (5) years of his prison term and every three (3) years thereafter,] The Board will only conduct a personal review hearing after it has received a recommendation for a 20% reduction for the completed three year period under review as described in OAR 255-40-025(1).
- (2) Personal review dates shall be computed from the original adjusted commitment date. [starting with the date the prisoner's sentence begins to run.]
- (3) [Such review will be conducted] The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so [is exceptional] as to warrant a reduction in the prison term under the criteria listed in OAR 255-40-025(2) .
- (4) [(2)]Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews.

Procedure for Personal Reviews

255-40-010

Personal reviews shall be conducted by a panel or a Full Board pursuant to OAR 255-30-015.

Purpose

255-40-015

(deleted)

Reopening Cases: [When; What is Necessary]  
255-40-020

- (1) Any three (3) Board members may reopen any case for reconsideration [The Board may reopen any case for reconsideration] upon the formal written request of a prisoner [to the chairperson or by the motion of a Board member] if:
- [(1) Substantial new information, which was unknown at the time of the prison term hearing, has been received;]
  - [(2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information pertinent to a prior Board action has been received;]
    - (a) [(3)S] statutory changes [has] have reclassified the criminal conduct involved (i.e. a Class A felony is reduced to a Class B felony);
    - (b) documented new information is received which is relevant to a recalculation of the prison term;
    - (c) [(4)R] rule changes would effect the inmate's prison term [have resulted in a shorter range]; or
    - (d) [(5)C] clerical error is established. The Board [shall] may at its discretion take administrative action [by file pass to correct the error.] or schedule a hearing to correct the error. The prisoner shall be notified in writing of Board action. If the Board [takes action which] finds that the corrected error would be adverse to the prisoner, the Board shall [reopen the] schedule a hearing.
- (2) The Board may review a case administratively under subsections (1)(b) and (c) of this section if the changes benefit the prisoner and an equal adjustment is made, unless there is a minimum pursuant to ORS 144.110.
- (3) [(6)] The Board shall state the specific reasons for denial of a request to reopen a hearing.
- (4) An individual Board member with the concurrence of two other Board members may move to reopen a hearing.
- (5) The inmate may waive the right to adequate notice and receipt of the Board Review Packet, and the prison term hearing may be reopened based on the criteria listed in subsection (1) of this section.

[20%] Reductions in Prison Terms [ : Effect of Minimum Terms]  
255-40-025

- (1) An established prison term as defined in section 255-30-005(2), may be reduced under subsection (2) of this section upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. [with the concurrence of the institution superintendent.] Such a request for a hearing must come to the chairperson of the Board, [and with the concurrence of the majority of the board,] and upon receipt, a hearing may [will] be scheduled. [ :]
- [(a) If the prisoner has a judicial minimum sentence under ORS 144.110 such minimum must be overturned by four (4) concurring votes before a reduction can be granted.]
- [(b) If the prisoner has a mandatory minimum sentence under ORS 161.610 a reduction cannot be granted below the mandatory minimum sentence.]
- (2) [Reductions in the prison term may be granted by the Board only upon showing by] If the prisoner displays an extended course of conduct indicating outstanding reformation, after three years, the Board may grant a reduction of up to 20% of the completed three year period under review, under this section. Cases will be [determined] reviewed based on the following criteria:
- (a) [on] the individual merits of each case [ ;, however, the criteria may include[ :];
- [(a) A five (5) year period of good conduct;]
- (b) the seriousness of the crime;
- (c) the protection of the public
- (d) [(b)D] demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
- (e) [(c)C] documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and [.]
- (f) the absence of disciplinary actions resulting from violation of rules within the three year period.
- [(3) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:]

- [(a) A report prepared by medical a authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and]
  - [(b) Recommendation from superintendent of institution; and]
  - [(c) Recommendation from Administrator of Corrections Division.]
- [(4) Reductions other than those granted for severe medical conditions or cooperation with authorities shall be limited to a maximum of 20% of the prison term under review:]
- [(a) Reductions shall customarily be considered at personal reviews under rule 255-40-005;]
- (3) [(b)] Special requests for reduction [supported by] from the superintendent of the parent institution and the Director of the Department of Corrections [which do not coincide with the personal interviews shall] may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.
- (4) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
  - (b) when cooperation with law enforcement officials results in the apprehension, interuption and conviction of persons involved in significant on going criminal activity.
- (5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for [a] any date reduction under consideration.

Effect of Minimum Terms on Reductions

255-40-026

- (1) If the prisoner has a judicial minimum sentence which was previously upheld pursuant to ORS 144.110, the minimum must be overturned by four (4) concurring votes of the Board before a reduction can be granted from the previously established minimum set.
- (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, a reduction cannot be granted below the statutory goodtime date.

Reductions for a Severe Medical Condition/Hardship Parole

255-40-028

- (1) Reductions in prison terms may be considered where the prisoner is suffering from a severe medical condition. The request for reduction must be accompanied by:
  - (a) a report prepared by a medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
  - (b) a recommendation from the superintendent of the institution; and
  - (c) a recommendation from the Director of the Department of Corrections.
- (2) Should the medical condition be such that a hearing may be threatening to the health and safety of the prisoner or the Board, the reduction shall be granted administratively, with the concurrence of the majority of the Board. If there is a 144.110 minimum concurrence by four Board members is required.

Who May Appear

255-40-030

(deleted)

Notice; Disclosure; Record

255-40-035

The notice, disclosure, and record making provisions of Division 30 shall apply to all hearings, and reviews [and interviews in] granted under this Division.

Personal Review Packets  
255-40-040

The Personal Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psych evaluations (last 6 months);
- (4) recommendation for a date cut;
- (5) correspondence;
- (6) field parole analysis report; and
- (7) court orders.

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

RECEIVED

MAR 30 8 19 AM '88

BARBARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the  
Board of Parole on March 28, 1988 to become effective  
April 4, 1988

(Agency)

(Date)

(Date)

The within matter having come before the Board of Parole after

(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: March 1, 1988

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

MAR 30 1988

LEGISLATIVE COUNCIL

Adopted:  
(New Rules)

Amended:  
(Existing Rules) Exhibits AI and AII

Suspended:  
(Temporary Only)

Repealed:  
(Existing Rules)

as Administrative Rules of the Board of Parole

(Agency)

DATED this 29th day of March, 19 88

By: Doug Dinsmore  
(Authorized Signer)

Title: Vice-Chair, Board of Parole

Statutory Authority: 144.780, ORS Chap. 144.

Subject Matter: Exhibits AI and AII are being amended to creat new crime categories and to  
increase the severity ratings for certain crimes when the def. has a history od DUIIs.

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

RECEIVED

MAR 30 8 19 AM '88

BARBARA BOULITS  
SECRETARY OF STATE

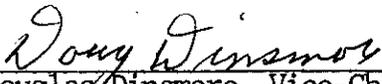
BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Amending of the Exhibits Governing Crime Categories. )  
 ) STATEMENT OF JUSTIFICATION

The Board of Parole is permanently amending the above named Exhibits to establish crime categories for crimes created by the 1987 Legislature and some Vehicle Code Offenses from the 1985 session. The Exhibits are also being amended to increase the crime severity ratings for certain crimes when the defendant has a history of DUII convictions.

- (a) Statutory Authority : ORS 144.780, ORS Chap. 144.
- (b) Need for Rule : The Exhibits are being permanently amended to reflect crime categories for the new crimes created by the 1987 Legislature, and some Vehicle Code Offenses from the 1985 session. The Exhibits are also being amended to increase the crime severity ratings for some crimes when the defendant has a history of DUII convictions.
- (c) Documents Relied Upon : 1988 Criminal Code, Letters from the Oregon DA's Association and the Governor's Advisory Comm. on DUII.

Date \_\_\_\_\_

  
\_\_\_\_\_  
Douglas Dinsmore, Vice-Chair  
Board of Parole

FISCAL ANALYSIS OF RULE  
PER ORS 183.335

<u>Effect on Revenue (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

<u>Effect on Expenditures (By Fund)</u>	<u>Current Biennium</u>	<u>Future Biennium</u>
None	None	None

Organizational Impact:

None

Positions:

None

Economic Impact:

None

Reference for Data and Methods Used RE Above

Parole Board Budget 1987-88.

Prepared by: Georgina Dews

Agency: Board of Parole

Title: Law Clerk

Date: 2/19/88

EXHIBIT A

CRIME SEVERITY RATINGS

<u>ORS</u>	<u>CRIME</u>	<u>FELONY CLASS</u>	<u>RATING</u>
163.535	Abandonment of Child	C	2
475.993	Act By Registrant	C	1
163.105	Aggravated Murder	U	7
164.057	Aggravated Theft I	B	4
164.325	Arson I	A	6,5
164.315	Arson II	C	2
163.185	Assault I	A	6,5
163.175	Assault II	B	4
163.165	Assault III	C	3,2
161.405	Attempt - Classified one level below crime attempted. (e.g., Attempted Burglary I is a B Felony.)		
153.515	Bigamy	C	1
162.015	Bribe Giving	B	3
162.215	Bribe Receiving	B	3
162.275	Bribe Receiving by a Witness	C	2
162.265	Bribing a Witness	C	2
164.225	Burglary I	A	5,4,3
164.215	Burglary II	C	3,2,1
475.995	CAID (Minors)	A	4,3,2
475.992(1)	CAID (Others)	B	3,2,1
166.220	Carrying Weapon With Intent to Use	C	2
163.275	Coercion	C	4,3
167.017	Compelling Prostitution	B	4
161.450	Conspiracy - Classified at same level as conspired crime, except murder or treason which are reduced to a felony. (e.g., Conspiracy to Commit Burglary I is an A Felony.)		
803.080	Counterfeit Vehicle Title	C	1
484.740	Court Order (Habitual Traffic Offender O.C.)	C	1
163.005	Criminal Homicide	A	2
164.365	Criminal Mischief I	C	1
163.205	Criminal Mistreatment I	C	2
163.555	Criminal Nonsupport	C	1
165.022	Criminal Possession Forged Instrument I	C	1
165.032	Criminal Possession Forgery Device	C	1
164.140	Criminal Possession Rented/Leased Property	C	2,1

163.145	Criminally Negligent Homicide	C	4,3
163.257	Custodial Interference I	B	3
163.245	Custodial Interference II	C	1
163.673	Dealing in Depictions of Child's Sexual Conduct	B	4
475.992(2)	Delivery of Marijuana for Payment	B	3,2,1
475.995(5)	Delivery of Marijuana to Minor	A	1
167.365	Dogfighting	C	1
487.560	Driving While Suspended or Revoked	C	1
164.885	Endangering Aircraft	C	2
162.165	Escape I	B	5
162.155	Escape II	C	2,1
166.270	Exconvict in Possession	C	2
162.205	Failure to Appear I	C	2
811.705	Failure to Perform Duties of a Driver to Injured Persons	C	2
822.605	False Swearing Relating to Regulation Vehicle Related Business	C	1
803.230	Forge/Alter Vehicle Title Reg.	C	1
165.013	Forgery I	C	3,2,1
59.055; 59.135; 59.730; 59.740; 59.750; 59.760	Fraud Involving Securities	C	2,1
59.770; 59.780; 59.790; 59.800			
165.055(3b)	Fraudulent Use of Credit Card	C	1
162.325	Hindering Prosecution	C	1
471.990	Illegal Manufacture of Mash; Operating Distillery Without a License	C	1
166.410	Illegal Manufacture, Importation, Sale, Gift, Loan or Possession of Firearms	C	1
163.525	Incest	C	1
483.602(4a)	Injury/Death (Hit & Run)	C	1
166.165	Intimidation I	C	2
163.235	Kidnapping I	A	6
163.225	Kidnapping II	B	4
163.118	Manslaughter I	A	6
163.125	Manslaughter II	B	5,4,3
475.992(1)	Manufacture or Delivery of Controlled Substance	A,B,C	4,3,2,1
481.990(2-5, 8,9)	Motor Vehicle Title Offenses Operating Vehicle While Under Influence	C	1
163.115	Murder	U	7,
165.065(3b)	Negotiating a Bad Check	C	3,2,1
166.450	Obliteration of ID Marks (Firearm)	C	1
167.278	Obtaining Drugs Unlawfully (O.C.)	B	2
162.065	Perjury	C	2
496.992	Poaching	C	2
165.070	Possessing Fraudulent Communications Device	C	2,1

475.992(4)	Possession of a Controlled Substance	B,C	2,1
167.137	Possession of Gambling Records I	C	1
819.300	Possession of a Stolen Vehicle	C	1
166.275	Possession of Weapon By Inmate of Penal Institution	A	5
167.127	Promoting Gambling I	C	1
163.485	Promoting Obscene Sexual Performance (Child O.C.)	C	2
167.012	Promoting Prostitution	C	2
166.720	Racketeering	A	5,4
163.375	Rape I	A	6,5
163.365	Rape II	B	4,3
163.355	Rape III	C	2
166.015	Riot	C	2
164.415	Robbery I	A	6
164.405	Robbery II	B	4
164.395	Robbery III	C	2
167.062(4)	Sadomasochistic Abuse or Sexual Conduct in Live Show	C	1
163.425	Sexual Abuse I	C	3
163.411	Sexual Penetration Foreign Obj. I	A	6,5
163.408	Sexual Penetration Foreign Obj. II	B	4
163.405	Sodomy I	A	6,5
163.395	Sodomy II	B	4
163.385	Sodomy III	C	4
161.435	Solicitation - Classified one level below crime solicited.		
165.090	Sports Bribe Receiving	C	2
165.085	Sports Bribery	C	2
162.185	Supplying Contraband	C	4,3,2,1
167.212	Tampering With Drug Records	C	1
162.285	Tampering With a Witness	C	2
164.085	Theft by Deception	C	2,1
164.075	Theft By Extortion	B	4,3
164.095	Theft By Receiving	C	2
164.055	Theft I	C	2,1
164.125(4b)	Theft of Services	C	2,1
164.065	Theft, Lost/Mislaidd Property	C	1
819.310	Trafficking in Stolen Vehicles	C	3
163.677	Transporting Pornographic Material (child)	B	4
166.005	Treason	U	7
164.135	Unauthorized Use of Vehicle	C	2,1
475.992(3)	Unlawful Creation or Delivery a Counterfeit Substance	A,B,C	3,2,1
475.995	Unlawful Delivery of Controlled Substance to A Minor	A,B	4,3,2
166.660	Unlawful Paramilitary Activity	C	1
166.250	Unlawful Possession of Weapons	C	2
163.483	Using Child in Obscene Sexual Performance (O.C.)	C	3
163.670	Using a Child in a Display of Sexually Explicit Conduct	A	6,5

411.630; 411.640  
411.690; 411.840

Welfare/Food Stamp Fraud

C

2,1

EXHIBIT A

PART II

Arson I  
164.325

Subcategory 1 - Rating of 6:

Knew or should have known premises were occupied at time of act or injury.

Subcategory 2 - Rating of 5:

All other cases of Arson I.

Assault I  
163.185

Subcategory 1 - Rating of 6:

Cases of Assault I in which there is intentional cause of serious physical injury to another by means of a deadly or dangerous weapon.

Subcategory 2 - Rating of 5:

Cases of Assault I in which the victim(s) provoke the crime to a substantial degree or other evidence that misconduct by the victim(s) contributed substantially to the criminal episode.

Assault III  
163.165

Subcategory 1 - Rating of 3:

Assault III/Vehicular where defendant has at least 2 prior DUUI convictions within a 5 year period.

Subcategory 2 - Rating of 2:

All other cases of Assault III.

Burglary I  
164.225

Subcategory 1 - Rating of 5:

Entry into a dwelling or non-dwelling, where defendant used or threatened to use, by word or gesture, a dangerous weapon or caused/threatened serious physical injury. Entry into a dwelling or non-dwelling in which goods taken are valued at \$5,000 or over.

Subcategory 2 - Rating of 4:

Entry into a dwelling or non-dwelling in which goods taken exceeds \$1,000 but is less than \$5,000.

Subcategory 3 - Rating of 3:

All other entries into dwelling or non-dwelling and the value of goods taken is less than \$1,000.

Burglary II  
164.215

Subcategory 1 - Rating of 3:

Theft or destruction over \$5,000 in property.

Subcategory 2 - Rating of 2:

Theft or destruction of between \$1,000-\$5,000.

Subcategory 3 - Rating of 1:

Theft of less than \$1,000.

CAID (Minors)  
475.995

Subcategory 1 - Rating of 4:

Furnishing heroin or opiate derivatives.

Subcategory 2 - Rating of 3:

Furnishing any drug except those fitting Sub. 3.

Subcategory 3 - Rating of 2:

Furnishing less than 1 ounce of marijuana.

CAID (Others)

475.992(1)

Subcategory 1 - Rating of 3:

Manufacture, cultivation, or sale for profit, or possession with intent to sell for profit of any heroin or opiate derivatives.

Subcategory 2 - Rating of 2:

Manufacture, cultivation, or sale for profit, or possession with intent to sell for profit, of any other drug.

Subcategory 3 - Rating of 1:

Manufacture for own use or possession for own use.

Coercion

163.275

Subcategory 1 - Rating of 4:

Compelling another to act through threat of serious physical harm or property damage; blackmail.

Subcategory 2 - Rating of 3:

All others.

Criminal Possession Rented/Leased Property

164.140

Breakdown is the same as for Theft I.

Criminally Negligent Homicide

163.145

Subcategory 1 - Rating of 4:

Vehicular Homicide where defendant with criminal negligence causes the death of another person.

Subcategory 2 - Rating of 3:

Cases where the victim's misconduct contributed to the criminal episode (i.e. victim was drinking buddy of def.).

Delivery of Marijuana for Payment  
475.992(2)

Breakdown is the same as for Manufacture or Delivery of Controlled Substance.

Escape II  
162.155

Subcategory 1 - Rating of 2:

Use or threat to use physical force escaping from custody; or, having been convicted or found guilty of a felony, escapes from custody imposed as a result thereof; or escapes from a correctional facility or, while otherwise under the jurisdiction of the Psychiatric Security Review Board, departs from state without authorization of Board.

Subcategory 2 - Rating of 1:

All other cases.

Forgery I  
165.013

Subcategory 1 - Rating of 3:

Loss or receiving of over \$5,000.

Subcategory 2 - Rating of 2:

Loss or receiving of \$1,000 to \$5,000.

Subcategory 3 - Rating of 1:

Loss or receiving of under \$1,000.

Fraud Involving Securities  
59.055; 59.135; 59.730; 59.740; 59.750; 59.760; 59.770; 59.780;  
59.790; 59.800

Breakdown is the same as for Theft I.

Manslaughter II  
163.125

Subcategory 1 - Rating of 5:

Cases where death of a victim, usually a child, results from prolonged abuse; failure to provide for victim's welfare resulting in death; medical treatment withheld to conceal physical signs of abuse.

Subcategory 2 - Rating of 4:

Causes another to commit suicide or aids, cases where death of victim involves use of a weapon or follows an assault; cases where death is by negligent use of vehicle and defendant has at least 2 prior DUII convictions within 5 years.

Subcategory 3 - Rating of 3:

Cases where death is by negligent use of a vehicle; all other cases.

Manufacture or Delivery of Controlled Substance  
475.992(1)

Subcategory 1 - Rating of 4:

Manufacture or delivery of heroin or opiate derivatives for compensation of \$2,000 or more.

Subcategory 2 - Rating of 3:

Manufacture or delivery of heroin or opiate derivatives without compensation or for compensation of less than \$2,000; Manufacture or delivery of cocaine for compensation of \$2,000 or more and other drugs for compensation of \$1,000 or more.

Subcategory 3 - Rating of 2:

Manufacture or delivery of cocaine for compensation of less than \$2,000 and other drugs for compensation of less than \$1,000.

Subcategory 4 - Rating of 1:

Manufacture exclusively for own use; delivery without compensation, except heroin or opiate derivatives.

Murder  
163.115

Subcategory 1 - Rating of 7:

Stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation.

Subcategory 2 - Rating of 7:

All other cases of murder.

Possessing Fraudulent Communications Device  
165.070

Breakdown is the same as for Theft 1.

Possession of Controlled Substance  
475.992(4)

Subcategory 1 - Rating of 2:

Possession of large amounts of schedule 1 or 2 drugs, presumption of possession with intent to sell.

Subcategory 2 - Rating of 1:

Possession of small amounts of schedule 1 or 2 drugs, rebuttable presumption of possession for own use.

Racketeering  
166.720

Subcategory 1 - Rating of 5:

The principle party involved in violation of the Racketeering statute. Involvement is that of planning, directing or participating in the scheme or schemes resulting in direct profit or gain.

Subcategory 2 - Rating of 4:

The subordinate party involved in violation of the Racketeering statute. Involvement is limited to acting as an agent or employe of the principle. There is no involvement in planning, directing or participating in the scheme or schemes in violation of this statute.

Rape I  
163.375

Subcategory 1 - Rating of 6:

Stranger to stranger; breaking and entering; threat to use or use of weapon; actual or threat of serious bodily or emotional harm; intercourse with female or male under 12.

Subcategory 2 - Rating of 5:

All other cases.

Rape II  
163.365

Subcategory 1 - Rating of 4:

Cases in which the female is incapable of consent by reason of mental defect; mental incapacitation or physical helplessness; or the female is under 14 years of age.

Subcategory 2 - Rating of 3:

All other cases.

Sexual Penetration with Foreign Object I  
163.411

Subcategory 1 - Rating of 6:

Sexual Penetration with Foreign Object I is broken down in the same manner as Rape I.

Subcategory 2 - Rating of 5:

All other cases.

Sodomy I  
163.405

Subcategory 1 - Rating of 6:

Sodomy I is broken down in the same manner as Rape I.

Subcategory 2 - Rating of 5:

All other cases.

Supplying Contraband  
162.185

Subcategory 1 - Rating of 4:

While confined in a correctinal facility, juvenile facility or state hospital makes, obtains or possesses any firearm; knowingly introduces any firearm into a correctional facility, juvenile facility, or state hospital.

Subcategory 2 - Rating of 3:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses dangerous weapon; knowingly introduces any dangerous weapon into a correctional facility, juvenile facility or state hospital.

Subcategory 3 - Rating of 2:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any Schedule 1 controlled substance except marijuana; knowingly introduces any Schedule 1 controlled substance into a correctional facility, juvenile facility or state hospital.

Subcategory 4 - Rating of 1:

All other cases.

Theft by Deception  
164.085

Breakdown is the same as for Theft I.

Theft by Extortion  
164.075

Subcategory 1 - Rating of 4:

Threat of serious bodily harm or death.

Subcategory 2 - Rating of 3:

All others.

Theft I  
164.005

Subcategory 1 - Rating of 2:

Theft or receiving of \$1,000 to \$10,000.  
Theft of a motor vehicle for personal transportation.  
Theft of a livestock animal.  
Theft of a firearm or explosive.  
Theft during riot or catastrophe.

Subcategory 2 - Rating of 1:

Thefts under \$1,000.

Theft of Services  
164.125

Breakdown is the same as for Theft I.

Unauthorized Use Motor Vehicle  
164.135

Subcategory 1 - Rating of 2:

Loss, destruction or severe damage to vehicle or property; or injury to others.

Subcategory 2 - Rating of 1:

All others.

Unlawful Creation or Delivery of Counterfeit Substance  
475.992(3)

Breakdown is the same as for Manufacture or Delivery of Controlled Substance.

Unlawful Delivery of Controlled Substance to a Minor  
475.995

Subcategory 1 - Rating of 4:

Any delivery of heroin; delivery for compensation of any other drug, except those fitting Sub. 3.

Subcategory 2 - Rating of 3:

All other except those fitting Sub. 3.

Subcategory 3 - Rating of 2:

Any delivery of less than 1 ounce of marijuana.

Using a Child in a Display of Sexually Explicit Conduct  
163.670

Subcategory 1 - Rating of 6:

Child 12 years of age or under.

Subcategory 1 - Rating of 5:

All other cases.

Welfare/Food Stamp Fraud  
411.639; 411.640; 411.690; 411.840

Breakdown is the same as for Theft I.

CERTIFICATE AND ORDER  
for  
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

RECEIVED

APR 15 4 41 PM '88

SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the \_\_\_\_\_

Board of Parole (Agency) on April 14, 1988 (Date) to become effective \_\_\_\_\_

April 15, 1988 (Date)

The within matter having come before the Board of Parole (Agency) after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO  YES  Date Published: \_\_\_\_\_

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:  
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM.  or TEMP.

RECEIVED

APR 15 1988

Adopted:  
(New Rules)

\_\_\_\_\_  
\_\_\_\_\_  
LEG. COUNSELS OFF.

Amended:  
(Existing Rules)

Exhibit J

Suspended:  
(Temporary Only)

\_\_\_\_\_  
\_\_\_\_\_

Repealed:  
(Existing Rules)

\_\_\_\_\_  
\_\_\_\_\_

as Administrative Rules of the Board of Parole (Agency)

DATED this 14th day of April, 19 88

By: Gary W. Inimou  
(Authorized Signer)

Title: Vice-Chair, Board of Parole

Statutory Authority: ORS 144.270, ORS Chap. 144

Subject Matter: Conditions of Parole

Statement of Need Attached:

Fiscal Impact Attached:

For Further Information Contact: Georgina Dews, Law Clerk Phone: 378-2334

BEFORE THE  
OREGON STATE BOARD OF PAROLE

In the Matter of the Amending )  
of the Exhibit Governing Parole) )  
Conditions. )

STATEMENT OF JUSTIFICATION

The Board of Parole is temporarily amending the above named Exhibit due to the advice of the Attorney General's Office that the prior "best interest return" language may not be sufficient to revoke parole. Failure to amend the Exhibit could result in continued parole for some parolees whose parole should be revoked by the Board, because parole is no longer in the best interest of the parolee or society, thereby endangering the public and raising the possibility of liability for the Board. The Board finds that these factors will result in serious prejudice to the public interest.

- (a) Statutory Authority : ORS 144.270, ORS Chap. 144.
- (b) Need for Rule : These rules are being temporarily amended due to the advice of the Attorney General's Office that the Board's current "best interest return" language may not be adequate for revoking parole.
- (c) Documents Relied Upon : None.

11/15/88  
Date

Doug Dinsmore  
Douglas Dinsmore,  
Vice-Chair  
Board of Parole

EXHIBIT J

GENERAL/SPECIAL PAROLE CONDITIONS

Parole is ordered subject to all listed General Conditions and the designated Special Conditions. Parole may be revoked for violation of any of these conditions.

GENERAL CONDITIONS:

1. Parolee will abide by the direction and counsel of the Department of Corrections and its representatives, and answer all reasonable inquiries of the Board of Parole or the parole officer.
2. Parolee will not change residence without first notifying the parole officer.
3. Upon release parolee will proceed at once to the place of residence and report arrival, within 24 hours to the parole office listed below, or according to instructions at time of release.
4. Parolee will find and maintain gainful employment, approved schooling, or other approved programming.
5. If residence is within the State of Oregon, parolee will not leave the state without first securing permission in writing from the parole officer.
6. If residence is outside the State of Oregon, parolee will not re-enter the State of Oregon without permission in writing from the Director, Department of Corrections.
7. Parolee will make a written and truthful report on the last day of each and every month to the Director, Department of Corrections, on forms which will be furnished, giving information required therein.
8. Parolee is not to own, possess, or be in control of any weapon.
9. Parolee will obey all municipal, county, state, and federal laws.
10. Parole must continue to be in the best interest of parolee and society.

SPECIAL CONDITIONS:

1. Parolee is to submit person, residence, vehicle and property to search by a parole officer having reasonable grounds to believe such search will disclose evidence of parole violation.
2. Parolee is to become involved in a drug surveillance program.
3. Parolee is to become involved in a drug treatment program.
4. Parolee is to become involved in a mental health treatment program.
- 5A. Parolee is not to use intoxicating beverages.
- 5B. Parolee is not to use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.
- 5C. Parolee is to undertake and maintain an antabuse program, if medically approved. If so approved, antabuse will be implemented prior to release.
- 5D. Parolee is to undertake and maintain an alcohol treatment program.
6. Parolee is not to have a checking account.
7. Restitution to the victim has been made part of the parole (ORS 144.275). The parole officer will submit a payment schedule for Board approval.
8. Parolee is to have no contact with minors (male/female) and not to frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
9. Other: Special conditions may be imposed that are not listed above when the Board of Parole determines that such conditions are required.

INSTRUCTIONS: