

# ARKANSAS BOARD OF PAROLE

## POLICY MANUAL



Revised and Adopted June 24, 2010

**Arkansas Board of Parole Policy Manual  
Table of Contents**

<u>Page</u>	<u>Subject</u>
1	<b>BOARD MEMBERSHIP AND RESPONSIBILITIES</b>
2	Quorum and General Voting Information
2	Recusal
3	<b>CONSIDERATION OF INMATES ELIGIBLE FOR PAROLE</b>
3	General Information
3	Inmates with Transfer Eligible “TE” Dates
4	Discretionary Transfer (Exceptions to Transfer Eligible “TE” Dates)
4	Inmates with Parole Eligible “PE” Dates
5	Foreign Nationals
5	Time Computation
5	Notification of Officials and Victims
6	Release Hearing Preparation and Guidelines
7	Parole Hearing Panel
7	Transfer Decision Criteria for Release to Parole Status for TE and PE Inmates
7	Conducting a Release Hearing
8	Parole Consideration of Out of State Inmates (Interstate Compact, Act 700)
8	Processing and Transmitting Release Decisions
9	Release Decision Summary
9	Release of an Inmate with an Incurable Illness or who is Permanently Physically or Mentally Incapacitated (Act 290)
9	Supervision of Parolees
10	Appeal of Board Decision
10	<b>RELEASE REVOCATION</b>
10	Designee for Conducting Hearings
10	Warrant and Criteria for Arrest of Parolee
10	Hearing Waiver for Technical Violator Program (TVP) Participation
11	New Felony Charges
11	Possible Outcomes of the Revocation Hearing
11	Actions when Revoked
12	Determining the Release Hearing Date
12	Preliminary Hearing Requirement (Interstate Compact Parolees)
13	Release Revocation Process
14	Appeal of Hearing Examiner’s Revocation Decision
15	<b>EXECUTIVE CLEMENCY</b>
15	Overview and Terminology
15	Authority for Executive Clemency
16	Eligibility and Application for Executive Clemency
16	Required Notice of a Clemency Request and Request for Comment
17	Supplemental Guidance Pertaining To Death Sentence Cases
	Continued →

**Arkansas Board of Parole Policy Manual  
Table of Contents**

<u>Page</u>	<u>Subject</u>
17	Date and Place of Filing
17	Board Investigation, Review, and Report
17	Hearing Process
18	After the Board Review/Hearing
18	Clemency Appeals
18	<b>BOARD MANAGEMENT AND ADMINISTRATION</b>
18	Policy Manual Availability and Review
18	Access to Persons and Records
18	Legal Assistance
19	Inspection of Records
19	Expunging Records (Act 378 Participants)
19	Participation of Parolee in Law Enforcement Undercover Operations
19	Additional Information about Related Activities Accomplished by Other Agencies
20	Facilities and Equipment
20	Planning, Goals, Objectives, and Program Coordination
20	Financial Processes and Controls
21	Additional Chairperson Duties
21	Personnel and Staffing Guidelines
21	Training
22	Data Collection, Research, Analysis, and Reports
	<b>ATTACHMENTS</b>
23	- Form 153 (Law Enforcement Response)
24	- Policies and Procedures for Executive Clemency Application by Persons Sentenced to Death
25	- Conditions of Release
26	- Employee Acknowledgement of Board of Parole Policy Manual

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Board Approval  
June 24, 2010

<b>Signature on File</b>	<b>Signature on File</b>	<b>Signature on File</b>
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# Arkansas Board of Parole Policy Manual

Revised and Adopted on June 24, 2010

## **BOARD MEMBERSHIP AND RESPONSIBILITIES**

The Arkansas Board of Parole (Board) is composed of seven full time members appointed by the Governor and confirmed by the Senate. Each member is appointed for a term of seven years, except that the terms shall be staggered by the Governor so that the term of one member expires each year. If a vacancy should occur on the Board prior to the expiration of a term, the Governor shall fill the vacancy for the remainder of the unexpired term, subject to confirmation by the Senate at its next regular session. The Governor may remove a Board member for good cause as prescribed by law. If the Senate is not in session, confirmation of the removal will be by written petition of a majority of the senators. For those persons eligible for parole, the Board has statutory authority to determine what persons will be placed on parole and to set the time and conditions of the parole. The Board will conduct open meetings and make public its findings for each eligible candidate for parole. However, inmate interviews may be closed to the public.

The Board is also responsible for reviewing all pardon and commutation applications and making non-binding recommendations to the Governor.

Board staff, to include hearing examiners, is responsible for carrying out the Board's mission and complying with applicable law and Board policies.

Board members must not seek or hold public office which would represent a conflict of interest while on the Board.

The America Correctional Association (ACA) recommends that the composition of a releasing authority meets the following standards:

1. The racial makeup should be representative of the diversity of the significant population under the jurisdiction of the Board.
2. At least 2/3<sup>rd</sup> of Board members should have at least 3 years experience in a criminal justice or juvenile justice, or equivalent experience in a relevant profession.
3. At least 2/3<sup>rd</sup> of Board members should have at least a baccalaureate degree or have completed a career development program that includes work related experience, training, or college credits providing a level of achievement equivalent to a bachelor's degree.

If the composition of the Arkansas Board of Parole does not meet these standards, the Chairperson will bring this to the Governor's attention during the selection process for a new Board member. Arkansas Code Ann. § 16-93-201 gives the Governor the sole power to appoint members to the Parole Board from the state at large. There is no statutory provision for the composition of the Arkansas Board of Parole.

The Governor shall appoint the Chairperson of the Board. The Board shall elect, during the month of February, a Vice Chairperson and a Secretary to serve as officers for the upcoming year. Officers shall be elected by a majority of members present and voting. If an office becomes vacant in the interim, the Board shall elect, at its next regular meeting, a member to serve in that office until the next election. A special election of officers may be called at any time at the request of a majority of the members.

## **Quorum and General Voting Information**

A quorum of four members is required to vote on each parole release case. All parole cases reviewed by a single member shall be reviewed by the full Board for agreement prior to a final decision. Such review shall consist of the single member advising the full Board of the following:

1. The inmate's name
2. The inmate's ADC number
3. The inmate's disciplinary class
4. County and year of conviction(s)
5. The inmate's PE/TE and Discharge dates
6. The reason for the member's recommendation(s)

Board practice is to have 7 members vote on executive clemency death sentence cases and a minimum of four votes on other clemency requests.

A member who recuses themselves is not eligible to vote and shall not be counted in determining whether there is a quorum. It is sufficient that a motion, decision, or proposition receives a majority of the votes actually cast. Each Board member has the right to vote on each consideration presented.

Note: All votes and reviews shall take place on a weekly basis in the Boardroom at a time to be determined by the full Board. No single member may make a request for release to the ADC or DCC without Full Board approval in accordance with rules set forth above.

## **Recusal**

No member of the Board or hearing examiner should participate in the determination of any matter before them:

1. if they are closely related to the person, the person's attorney, or the victim
2. if they have had a personal or business relationship with the person, the person's family, the person's attorney, the victim, or the victim's family which would affect or reasonably give the appearance of affecting judgment in the matter
3. if they have served as counsel for either party in legal proceedings concerning the person
4. if they have any other interest in the proceeding that would affect or reasonably give the appearance of affecting their judgment in the matter.

The responsibility for determining the appropriateness of recusal under the guidelines established by this policy shall be solely upon that member or hearing examiner.

In establishing these guidelines for recusal, it is not the intent of the Board to create a right or basis to challenge the actions of this Board, any member of the Board or hearing examiner, which is not otherwise provided by the laws or Constitution of this State or the United States. In the event a Board member or hearing examiner abstains or recuses from a vote for parole, transfer, pardon or commutation, this action is final and cannot be changed.

## **CONSIDERATION OF INMATES ELIGIBLE FOR PAROLE**

### **General Information**

“Parole” is the release of an inmate into the community prior to the expiration of the sentence, subject to conditions imposed by the Board and to supervision. Supervision is accomplished on behalf of the Board by Parole/Probation Officers, also referred to as “supervision officers,” who work for the Arkansas Department of Community Correction (DCC).

Depending on the date of the offense, some inmates are “transfer eligible,” some are “parole eligible,” and some inmates are not eligible for parole, but may be considered for release under clemency laws.

The DCC Institutional Release Services staff will prepare case records for use by Board members in conducting case reviews and hearings, as required by Arkansas Code Annotated §16-93-203. Board staff will manage these case records to ensure timely review/hearings.

### **Inmates with Transfer Eligible (TE) Dates**

Arkansas Code Annotated § 16-93-206 and § 16-93-1302 allow for transfer of inmates who have committed certain crimes on or after January 1, 1994, under the provisions of a transfer date, to be transferred to parole status by the Arkansas Department of Correction (ADC) subject to rules and regulations promulgated by the Board of Corrections and conditions set by the Board of Parole. The electronic Offender Management Information System (eOMIS) assigns a transfer eligibility (TE) date to inmates who are in this “transfer eligible” category (other inmates who are eligible for parole are assigned a “parole eligibility (PE)” date).

When the Board considers inmates with a TE date the Board will have only two options:

1. Transfer the inmate to the Department of Community Correction with specified conditions such as supervision level, programming requirements, and facility placement when appropriate. Conditions must be within the current resources of the Department of Community Correction; or
2. Based on the established criteria, deny transfer until the inmate completes a course of action established by the Board that would rectify the Board’s concerns. After the completion of the required course of action (which must be within the current resources of the Department of Correction), and final review of the inmate’s file to ensure successful completion, the Board will be required to transfer the inmate to the Department of Community Correction in accordance with administrative policy and subject to conditions attached to the transfer.

This review may be conducted without a hearing when the inmate has not received a major disciplinary report which resulted in the loss of good time, there has not been a request by victim to have input on transfer conditions, and there is no indication in the risk/needs assessment review that special conditions need to be placed on the inmate.

A hearing should also be held if an inmate objects to special conditions set by the Board or the Board reverses a previous decision to release the inmate. For cases which only require a review, a Board member may choose to hold a hearing if considered appropriate.

The Institutional Release Officers (IRO) use eOMIS information and procedural guidance to determine whether the Board can screen an inmate's records and release the inmate without a hearing, or whether a hearing is required. The IRO advises the Board of the options in this regard. Inmates who are assigned to Varner SuperMax or in administrative segregation should be reviewed to determine class and level of Varner SuperMax program completion. These inmates may be reviewed by a single member, but shall then be forwarded to the full Board for hearing and final determination. Final determination is subject to review by the Board Chairperson.

Should an inmate fail to complete the required course of action, it will be the responsibility of the inmate to request a rehearing before the Board. There will not be an automatic review in such cases. Unless otherwise determined by the majority of the Board, an inmate incarcerated at the Varner Super Max Unit who has failed to attain Level 5 will not be granted a rehearing by the Board unless and until such level has been attained.

### **Discretionary Transfer (Exceptions to Transfer Eligible (TE) Dates)**

Inmates who, on or after January 1, 1994, commit any Homicide, Sexual Assault in the First Degree, Sexual Assault in the Second Degree, Battery in the First Degree, Domestic Battery in the First Degree, Kidnapping, Rape, Aggravated Robbery, Causing a Catastrophe, Engaging in a Continuing Criminal Enterprise, and Simultaneous Possession of Drugs and Firearms shall be considered for discretionary transfer to the Department of Community Correction. Discretionary authority means the Board can deny parole with or without recommending a course of action to the inmate and if a course of action is recommended and completed, the Board is not required to release the inmate to community supervision.

The above inmates may be reviewed by a single member but shall then be forwarded to the full Board for hearing and a final determination subject to review by the Board chairperson.

The Board of Parole will have the authority to transfer such an inmate at a time when, based on a combination of its opinion and appropriate assessment by a risk needs assessment tool, there is reasonable probability that the inmate can be released without detriment to the community or the inmate.

After the Board of Parole has fully considered and denied the transfer of an offender sentenced for committing a discretionary offense, the Board of Parole may delay any reconsideration of the transfer for a maximum period of two (2) years.

Note: The same standard of review previously listed shall apply to inmates whose crimes were committed prior to January 1, 1994 (Parole Eligible) but who were convicted of the crimes listed in paragraph one (1) of this section.

### **Inmates with Parole Eligible (PE) Dates**

For inmates with a PE date the Board has discretionary transfer authority. A Board "discretionary transfer" hearing will be conducted for all inmates with a parole eligible (PE) date, unless the inmate waives the hearing in writing. Board members use the release decision criteria as a basis for deciding whether to approve transfer.

## **Foreign Nationals**

Parole consideration must be the same for foreign nationals. Their status or inability to return to their home country must not affect a parole decision. Foreign Nationals may be paroled to their home country when informal arrangements can be made for the transfer and when the inmate consents.

## **Time Computation**

Within 90 days of incarceration, the Arkansas Department of Correction (ADC) will provide inmates who have a TE or PE date with a time card that will provide at a minimum the following information: (1) sentence length, (2) offense, (3) minimum required time to be served before transfer/parole eligibility, (4) jail time credit, (5) class status, and (6) release dates.

## **Notification of Officials and Victims**

The Board will use Form 153 (Attachment 1: Law Enforcement Response) to solicit the written or oral recommendations of the sentencing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed. If the person whose parole is being considered by the Board was convicted of capital murder, of a Class Y, Class A, or Class B felony, or any violent or sexual offense, the Board shall also notify the victim of the crime, or the victim's next of kin, of the parole hearing and shall solicit written or oral recommendations of the victim or his next of kin regarding the granting of the parole. If the prosecuting attorney has notified the Board at the time of commitment of the prisoner that the victim or their next of kin does not want to be notified of future parole hearings, no notifications will be made. When soliciting recommendations from a victim the Board must notify the victim or his/her next of kin, of the date, time, and place of the parole hearing.

Victim(s) of the crime (or the victim(s)' next-of-kin) who wish to participate in the victim input process have two responsibilities: (1) to notify the Board or its designee of their intention to provide input, and (2) to provide to the Board or its designee a correct mailing address.

Supporting documentation of the victim(s)' (or the victim(s)' next-of-kin) claims will be accepted by the Board. In cases involving the transfer of an inmate, the victim(s) or victim(s)' next-of-kin may request and be granted a hearing to provide input concerning the inmate's release conditions only.

All release hearings will be conducted by a member or members of the Board. However, in situations where there are staffing shortages or high workload, the Chairperson may choose to designate Hearing Examiners to conduct release hearings on an interim basis.

At the time that a person is paroled or transferred by the Board, the Department of Community Correction shall give written notice of the granting of the release or transfer to the Sheriff, the Judge, and the Chief(s) of Police of all cities of the first class of the county from which the person was sentenced. If a victim or victim's next-of-kin has requested notification, notice will also be provided by the Parole/Probation Officer.

If a person is released to a county other than that from which he/she was committed, the Department of Community Correction, or its designee, shall give notice to the Chief of Police or Marshall of all cities to which he/she is released, and the Sheriff of the county to which he/she is released.



A record shall be kept of the actions of the Board and the Institutional Release Services staff shall notify each institution of decisions relating to persons who are or have been confined therein. The Board will retain a copy of recommendations received and such recommendations will be open to the public during reasonable business hours. (Ark. Code Ann. § 16-93-702) The Board will accept or hear input only as it relates to the inmate's release conditions.

### **Release Hearing Preparation and Guidelines**

The Board requires that inmates receive written notice of parole or transfer hearings at least fourteen days prior to the hearing. Inmates are notified by the Institutional Release Officer (IRO) located at their unit through a personal interview. The five objectives of the interview are: (1) to notify the inmate whose hearing is being scheduled to meet the Board, (2) to obtain the inmates signature acknowledging either the "Notice of Hearing" form, a waiver of the hearing, or a deferral of consideration. The original of the form is to be given to the inmate and the pink copy filed in the inmate's State file. A new form is required each time an inmate is scheduled for a hearing, (3) to obtain detailed information regarding the inmates' release plans if parole is granted (4) to provide the inmate with copies of Form 153 statements from sheriffs, judges, and prosecuting attorneys, if any, and (5) to answer any question the inmate may have regarding parole.

Approximately fourteen days before the hearing the Institutional Release Services staff will prepare, update and verify a parole file for each inmate being considered for parole or executive clemency. If there is any question as to the accuracy of the information gathered, the staff should verify the accuracy. If the accuracy cannot be verified, the information will be annotated to state this fact. The parole file will contain a voting worksheet for the Board members, a synopsis of the inmate's state file, Field Report submitted by the Parole/Probation Officer, required legal notices, Risk Assessment Indicator Sheet, victim notification information if required, Form 153 responses from sheriffs, judges, and prosecuting attorneys, support and protest correspondence, if any, and prior Boot Camp or parole violation warrants, reports, transcripts, and parole plan. The file is delivered to the Board about one week before interviews at the unit for Board members to review prior to the hearing and to refer to the file during the hearing if necessary.

The Institutional Release Services staff will give the inmate copies of Form 153 responses from sheriffs, judges, and prosecuting attorneys so that the inmate will have information on which the parole decision will be made. If an inmate has requested a victim statement, the request will be forwarded to the DCC Public Relations Office for processing. State law prohibits staff from releasing State criminal justice records to inmates. The Institutional Release Services staff should advise the inmate that additional confidential information may be considered by the Board such as witness statements and the Board will consider the inmate's work, education, and disciplinary records. When the Board member uses confidential information (that has not been provided to the inmate) as a basis for a decision, the Board member should advise the inmate that confidential information is being used as a basis for the decision.

Each inmate may invite a representative to attend and speak on his/her behalf at the Board hearing. Attorneys will be offered preference to be moved to the top of the docket. There is no limit to the number of visitors an inmate may invite to the hearing. The Board may limit presentations to just one visitor in addition to hearing from the inmate or their representative. There is no age limit. However minors may be barred from the hearing if their presence creates a disruption. Visitors are not required to be on the inmate's Visitation List but must be eligible for

it. All visitors must comply with attire and grooming rules. Units will give the utmost consideration to security when admitting visitors to the unit for Board hearings. Victims who arrive at a unit to attend the inmate's hearing will not be admitted to the hearing. Under Arkansas law, the victim is entitled to a separate hearing with the Board.

### **Parole Hearing Panel**

The Board may designate a panel for the interviewing of persons for possible parole, transfer and executive clemency. In addition to a Board member or hearing examiner, a panel may be comprised of one of the following: another Board member, a hearing examiner, a designated official of the Department of Correction, a designated official of the Department of Community Correction, or a designated official selected by the Board member interviewing.

### **Transfer Decision Criteria for TE and PE Inmates**

Release or discretionary transfer may be granted to an eligible person by the Board when, in its opinion, there is a reasonable probability that the person can be released without detriment to the community or him/herself.

In making its determination regarding a person's release or discretionary transfer, the Board will consider the following factors:

1. Institutional adjustment in general, including the nature of any disciplinary actions;
2. When considered necessary, an examination and opinion by a psychiatrist or psychologist can be requested and considered;
3. The record of previous criminal offenses (misdemeanors and felonies), the frequency of such offenses, and the nature thereof;
4. Conduct in any previous release program, such as probation, parole, work release, boot camp or alternative service;
5. Recommendations made by the Judge, Prosecuting Attorney, and Sheriff of the county from which a person was sentenced, or other interested persons;
6. The nature of the release plan, including the type of community surroundings in the person plans to live and work;
7. The person's employment record;
8. The person's susceptibility to drugs or alcohol;
9. The person's basic good health, physical and mental;
10. The person's participation in institutional activities, such as, educational programs, rehabilitation programs, work programs, and leisure time activities;
11. The failure of an inmate incarcerated at the Varner Unit Super Max to attain Level 5;
12. When there is a detainer, the Board must pursue the basis of any such detainer and only release the inmate to a detainer where appropriate. A detainer must not be considered an automatic reason for denying parole.

### **Conducting a Release Hearing**

All hearings will be conducted in privacy, and all individual case information will be kept confidential. Prior to the hearing, Board members must review information available in writing about the offender's prior history, current situation, events in the case since any previous hearing, information about the offender's future plans and relevant conditions in the community. The Board member conducting the hearing is responsible for making a record of the major issues and findings in the hearing report.

The Chairman, in consultation with Board staff and the Departments of Correction and Community Correction, will decide if video conferencing will be used at a given hearing and who will participate by way of video conferencing. Video conferencing is an appropriate option in certain circumstances, including the following; to meet urgent deadlines, when severe weather conditions prevent the safe travel of Board members, or when it would be the most effective and efficient use of manpower and budgetary resources. In advance of the hearing, the inmate will be notified about their hearing may conducted via video. If it is apparent that participating in a hearing conducted via video will create an undo hardship due to a documented disability, the Chairman will make arrangements for certain accommodations and/or ensure that an inmate is seen in person.

### **Parole Consideration of Out-Of-State Inmates (Interstate Compact, Act 700)**

The Board will transfer or consider for parole those eligible persons serving sentences outside the State in the following manner:

When an inmate confined in the prison system of another state or the federal system becomes eligible for transfer or parole in Arkansas, as indicated by a certified copy of a Judgment and Commitment Order from a court of this state, the appropriate records office of the Department of Correction shall notify the DCC Institutional Release Services office.

Before taking action on a transfer or parole request by an out-of-state inmate, the DCC Institutional Release Services office will request, in writing, that the corresponding board or commission in the jurisdiction where the person is incarcerated, provide the following information: 1) For cases with a TE date, a risk assessment evaluation; 2) For cases with a PE date, a recommendation and supporting documentation as to whether the person should be released.

The Board will use the information provided in lieu of the person's personal appearance before the Board. The Board will also consider information about the person and his/her crime provided by parole staff, law enforcement agencies, the victim(s) (or the victim(s)' next-of-kin), public officials, the person being considered, and other interested persons.

All other provisions of Arkansas law pertaining to transfer and/or the granting or denying of parole to persons held by the Department of Correction shall apply.

### **Processing and Transmitting Release Decisions**

The Department of Community Correction Institutional Release Services (IRS) office is the designated entity for processing all Board decisions relating to parole/transfer (grant, denial, or deferral) and Executive Clemency (a recommendation of with or without merit). The Board will record all votes in eOMIS and transmit both an electronic and paper copy to IRS. The record of the votes in eOMIS will then be audited again to ensure accuracy. Once all votes have been verified, the IRS staff will forward a record of votes to each Institutional Release Officer (IRO) at the various ADC and DCC units.

Prior to releasing a vote to an inmate, the IRO will once again verify that all information regarding the inmate's parole is correct. The decision of the Board will then be given to the inmate in a manner consistent with unit policy. Refer to the "Release Decision Summary" section below for additional information.

It is the responsibility of the IRO to contact the unit's Classification Officer or Program Coordinator if an inmate is required to complete any program(s) prior to release. The IRO is also responsible for any other action requested regarding the Board's decision.

The specific date of an inmate's release will be set by the inmate's unit of assignment. The IRO is the designated party for conveying that date to the inmate.

### **Release Decision Summary.**

A person considered by the Board for release will be advised in writing of the Board's decision within 21 days from the date of the hearing. The notification will include the Board's action and the most significant reason(s) for that action. The needs for safety and control within each unit prescribe that no information concerning the vote on the possible release of an inmate will be made until the Monday following the ratification of voting held at a regularly scheduled meeting of the Board.

A summary of the hearing will be available after the Board's vote decision has been released. Vote sheets are used in every decision making process done by the Board and are available upon request.

### **Release of an Inmate with an Incurable Illness or who is Permanently Physically or Mentally Incapacitated (Act 290)**

When, in the independent opinions of a prison physician and a consultant physician from the community, an inmate has an incurable illness which, on the average, will result in death within twelve months, or when an inmate is permanently physically or mentally incapacitated to the degree that the community criteria are met for placement in a nursing home, rehabilitation facility, or similar setting providing a level of care not available in the Department of Correction or the Department of Community Correction, the Director of the Department of Correction or the Director of the Department of Community Correction shall make these facts known to the Board of Parole.

The Board shall assemble or request all such information that is germane to making a decision. If the facts justify, the Board may make the inmate eligible for immediate transfer to parole supervision.

### **Supervision of Parolees**

Every parolee, while on release shall be subject to the orders of the Board. Failure to abide by any of the conditions as instructed may result in revocation of his/her conditional release.

Every inmate receives a written copy of his/her supervision conditions from the Parole/Probation Officer and signs that they understand their release conditions. A Parole/Probation Officer may request that a supervision condition be amended or removed entirely. All requests for the amending or removal of a condition must be made in writing to the Board. Any request for exemption of a special condition must be approved by the Board.

Condition number 10 stipulates that any parolee's automobile or residence may be searched by a Department of Community Correction officer without a warrant if the Department of Community Correction officer has reasonable suspicion for investigating whether a parolee has violated the terms of his/her release or committed a crime. The term "reasonable suspicion"

does not mean that which would be necessary for probable cause. Rather, reasonable suspicion is a degree of certainty based on facts and reasonable inferences that cause one to believe that a person has violated the law or conditions of supervision. Anything that causes the officer to reasonably believe a condition of supervision has been violated creates a reasonable suspicion.

At any time during a parolee's conditional release, the Board may issue a warrant for the arrest of the parolee for violation of any conditions of release or may issue a notice to appear to answer a charge of a violation. The Board will not issue a notice to appear without an accompanying warrant. The warrant and notice shall be served personally upon the parolee. The warrant shall authorize all officers named therein to place the parolee in custody at any suitable detention facility pending a hearing.

Any Department of Community Correction officer may arrest a parolee without a warrant or may deputize any officer with power of arrest to do so by giving the officer a written statement (or white warrant) setting forth that the parolee, in the judgment of the Department of Community Correction officer, violated conditions of the parolee's release. The written statement (or white warrant) delivered with the parolee by the arresting officer to the official in charge of the detention facility to which the parolee is brought shall be sufficient warrant for detaining the parolee pending disposition.

### **Appeal of Board Decision**

An inmate or his/her attorney may request reconsideration of any parole decision of the Board within sixty days of the release of the vote. Written requests for reconsideration shall be submitted to the Board. Only one reconsideration request will generally be considered by the Board for a particular Board action.

## **RELEASE REVOCATION**

### **Designee for Conducting Hearings**

The Board's designee for conducting release revocation hearings is the Hearing Examiner.

### **Warrant and Criteria for Arrest of Parolee**

When a parolee has committed a violation that results in a violation report, a warrant is issued when the parolee's presence in the community, pending disposition of a Revocation Hearing, would present unreasonable risks to public or individual safety or when it is very likely that the parolee will abscond. Supervision officers should request warrants only when these criteria are met. The Board will review violation reports requesting a warrant and issue warrants only when the criteria are met. Sufficient evidence should exist before issuing a detention warrant; however, the evidence does not need to rise to the same standard of probable cause required for arrest and criminal charges. This does not prohibit the supervision officer from arresting the parolee with a "white warrant" for detaining the parolee while waiting for a Parole Board warrant.

### **Hearing Waiver for Technical Violator Program (TVP) Participation**

When an offender has committed a serious technical violation or repeated pattern of minor violations, and the parolee meets eligibility requirements for the Technical Violator Program

(TVP), the Board authorizes a supervision officer to prepare a violation report, give notice to the parolee and transport the parolee to the TVP if the parolee voluntarily signs a hearing waiver. In such cases the violation report must be promptly sent to the Board for review, confirmation, and approval. Upon receipt of the violation report, the Hearing Examiner will complete a hearing report to document the review and administratively revoke the parolee's release status.

If the hearing examiner discovers situation(s) where the violation does not appear to warrant participation in the technical violator program, the case must be brought to the attention of the Board Chairperson who will raise the issue with the DCC Director or his/her designee for consideration in alternative programs or sentencing options available.

### **New Felony Charges**

When a new felony is committed and the parolee is not held on a Board-issued warrant, the Hearing Examiner may choose to hold or postpone the Revocation Hearing. If the Revocation Hearing is postponed, the Hearing Examiner can choose to conduct a hearing later, such as when new violations occur. If postponed and the court sentences the parolee to time at ADC, the Board processes an administrative revocation (no hearing). If postponed and the court sentences the person to probation, the Hearing Examiner shall abide by the court's decision.

When a parolee receives a new felony conviction and is sentenced to prison, his/her release may be revoked without a hearing. Written notice of this action will be forwarded to the parolee with a copy to the state file. If the parolee's conviction is set aside on appeal or otherwise nullified, his/her release will be reinstated, unless the Board or its designee has previously found there to be a preponderance of the evidence, after a hearing, that the parolee inexcusably violated one or more conditions of release. This finding justifies revocation notwithstanding the lack of a conviction for a criminal offense.

### **Possible Outcomes of the Revocation Hearing**

If a parolee is found to have violated a condition(s) of his/her release the Hearing Examiner may impose additional conditions of release or revoke his/her release and specify whether the violator should be sent to the Technical Violator Program (TVP) (when eligible) or the Arkansas Department of Correction (ADC).

The Hearing Examiner should consider the range of alternatives for sanctions and/or treatment. The following alternatives are generally actions that are considered and/or used by the supervision officer for minor violations, before resorting to a violation report. However, these may be used in lieu of revocation: increased supervision level, referral to a counseling program or service, referral to a resource agency or program appropriate to the offense, the loss of meritorious good time accrual status (good time earned while in parole status to reduce the time required to be under active supervision), a letter of reprimand, verbal warning, electronic monitoring, or curfews. The Hearing Examiner may confer with the supervision officer to determine the best course of action. An offender should only be returned to prison after considering less severe sanctions and treatment programs, and when it is determined to be in the clear interest of the public.

### **Actions When Revoked**

If revoked, the Hearing Examiner will complete appropriate sections of the "ADC Disposition of Revocation Hearing" form for Boot Camp program parolees or "Arkansas Board of Parole

Disposition of Parole Revocation Hearing” forms for all other parolees. The Hearing Examiner will enter the month when the parolee is to be scheduled to appear before the Board using the criteria in the following section. This month is entered even when the parolee is sent to the TVP because the parolee may subsequently be transferred to ADC for disciplinary reasons in which case the date would apply.

### **Determining the Release Hearing Date**

On the disposition of revocation hearing form, the Hearing Examiner will indicate the month the parolee will be scheduled for a release hearing after considering the following: The release hearing date must be set at six months from the date of incarceration, minus any months already spent in jail if the parolee has not been a behavior problem while in jail. The number of months may be reduced to as low as 3 months when the technical violation is relatively minor. The time can be set up to one year; however, permission must be obtained from the Board Chairperson before setting a date exceeding six months.

### **Preliminary Hearing Requirement (Interstate Compact Parolees)**

When the sending state has issued a warrant, a preliminary hearing must be held within 14 days from the time the warrant was served with one exception. The exception is made if the parolee has admitted to one or more significant violations of supervision conditions.

The Hearing Examiner must forward any evidence or record generated during a probable cause hearing through the DCC Interstate Compact Office to the sending state.

When a preliminary hearing for an Arkansas parolee is required, Hearing Examiners usually schedule and conduct a revocation hearing within the allowable 14-day time period, thereby making it unnecessary to conduct a preliminary hearing. When a parolee is incarcerated and there is a white warrant and/or Board-issued warrant, a preliminary hearing must be held within 14 days from the date the warrant was served unless one of the following conditions applies:

1. The parolee voluntarily, knowingly and intelligently waives his/her right to a hearing after being informed of rights pertaining to the hearing and the consequences of waiving the hearing, or
2. The violation report is substantiated by a court conviction or a court finding of probable cause on new criminal charges, or
3. A revocation hearing was held, or
4. The Hearing Examiner has determined there is good cause for delay or postponement of the hearing and this is documented; for example, the parolee or his/her attorney may request postponement.

A preliminary hearing follows the same procedures as a revocation hearing with the following exceptions:

1. The result of the preliminary hearing is not a finding of guilt, but a finding that there is probable cause to hold a revocation hearing. A finding of probable cause justifies a longer period of incarceration pending a revocation hearing.
2. Extenuating and mitigating factors do not need to be considered at a preliminary hearing because the finding is one of probable cause. Extenuating and mitigating factors can instead be discovered in a revocation hearing.

## **Release Revocation Process**

At a revocation hearing, the Hearing Examiner must seek and consider evidence that supports or counters the violation charges as well as any extenuating or mitigating circumstances that suggest that the violation does or does not warrant revocation.

Hearing Examiners must allow the parolee and his /her attorney when present, to exercise the right to:

1. Present evidence and favorable witnesses;
2. Seek disclosure of evidence;
3. Confront adverse witness(es), unless the witness(es) would be subjected thereby to a risk of harm;
4. Have counsel of choice present or, in the case of indigent parolees who request assistance to adequately present their case, have counsel appointed; however, the Hearing Examiner may determine that the situation does not justify the expense of a lawyer; and
5. Request postponement of the hearing for good cause.

The Supervising Officer will:

1. Request a warrant when arrest is considered necessary;
2. Arrest and jail parolees only when criteria are met;
3. Advise parolee of hearing related rights to include the rights hearing examiners must allow as described in the previous paragraph ;
4. Give the parolee notice of the violation;
5. Offer the parolee an opportunity to sign a hearing waiver when TVP-eligible;
6. Give scheduled parolees 72 or more hours notice of scheduled hearing;
7. Transport jailed parolees to scheduled hearings;
8. Be present at hearings to provide supplemental information and security;
9. For parolees sent to the TVP, use criteria to set the release hearing month (this date is for a release hearing if the revoked parolee is subsequently transferred from the TVP to ADC);
10. Transport parolees to the TVP or arrange transportation to ADC as appropriate; and
11. Process any additional supervision conditions.

The Parole/Probation Area Manager (or designee) will notify the Board of parolees who require a hearing by providing a prioritized list so that the Board may schedule hearings.

To ensure compliance with American Correctional Association (ACA) standards, the Board will hold hearings within 14 days for detained parolees and within 60 days for parolees who are not detained.

The Hearing Examiner will:

1. Hold a preliminary revocation hearing as described above when required. A revocation hearing may be held in lieu of a preliminary hearing with the exception of Interstate Compact cases.



2. Hold a revocation hearing within 60 days from the date of the violation report when a preliminary hearing has been held or is not required, unless the parolee has signed a hearing waiver (or requested a postponement of the hearing).
3. Conduct a hearing where the parolee resides or near the community where the violation is alleged to have occurred or where the parolee has been taken into custody; the Hearing Examiner may be at a remote location using a telephone or video conference system.
4. Complete the hearing results and give 3 signed copies of the hearing report to the supervising officer. This hearing report will include a statement of the reasons for the determination made and the evidence relied upon to include a summary of documents presented and responses made at the preliminary / regular hearing.

The Supervising Officer will:

1. Provide one copy of the hearing report to the parolee after appropriate restraints are in place (if the decision is to not revoke the parolee, restraints would not be necessary since the parolee would be released to community supervision). If not received the day of the hearing, a parolee who has been revoked will receive their copy within 21 calendar days of the hearing.
2. Keep one copy for their records;
3. Provide the other copy to the receiving facility (TVP or ADC).

### **Appeal of Hearing Examiner's Revocation Decision**

A parole violator may appeal the Hearing Examiner's decision by submitting a written appeal to the Board. Filing of an appeal will not preclude sending the release violator to the TVP or ADC. However, a Hearing Examiner may choose to suspend sending the violator to the TVP or ADC when the Hearing Examiner is aware of an appeal or intent to appeal, and if the violator has not yet been taken to the TVP or ADC.

An appeal of release revocation or the placement of additional conditions is made in the following manner:

1. The appeal must be made in writing by the parolee or his/her attorney to the Board within thirty (30) days from the date of the revocation hearing disposition unless the time period or other requirements are waived by the Board.
2. In the written appeal, the parolee or his/her attorney may request a general review of the decision to revoke and ask that the decision be reversed. The parolee or his/her attorney should state in the appeal specific reasons for the belief that the decision should be reversed.
3. The appeal shall be presented to the Board as soon as practicable after it is received. The report of the designee containing a summary of the evidence presented at the revocation hearing, the decision of the designee, and the reasons for the decisions shall also be presented to the Board.

Upon the consideration of the appeal, the Board shall vote:

1. to affirm the decision of the Hearing Examiner;
2. to reverse the decision of the Hearing Examiner, or
3. to schedule an appearance by the parolee before the Board for further consideration.

If the parolee is scheduled to appear before the Board, he/she will be afforded the same rights he/she was afforded at the revocation hearing.

## **EXECUTIVE CLEMENCY**

### **Overview and Terminology**

Clemency means kindness, mercy, forgiveness and leniency. Executive clemency is sometimes referred to in this section as “clemency.”

Executive Clemency is the process through which the Governor considers requests for granting reprieves, commutations of sentence and pardons after conviction and considers requests to remit (forgive) fines and forfeitures.

A reprieve is a temporary relief from or postponement of execution or criminal punishment or sentence. A reprieve is merely a stay (delay) of the execution of the sentence for a certain time period which is typically given to allow an offender an opportunity to reach an agreement on a change to the imposed sentence.

A respite is a temporary suspension of the execution of a sentence.

Commutation means a permanent change of sentence or punishment such as changing a death sentence to a life sentence without parole. Commutations are usually requested by incarcerated persons. Incarcerated persons submit requests through the Institutional Release Officer (IRO).

A pardon request asks that a criminal record be removed from the public record. A pardon is usually requested by a person who is no longer incarcerated. Persons who are not incarcerated submit applications directly to the Arkansas Department of Community Correction Institutional Release Services office in Pine Bluff where background information is gathered.

All requests are then forwarded to the Board of Parole for investigation. After the investigation, the Board provides a report and recommendation to the Governor. Important guidance about the executive clemency process can be found in the following sections, in attachment 1, on the application form, and in supplemental guidance published in a governor’s memo.

### **Authority for Executive Clemency**

The Arkansas Constitution, Article 6, Section 18, gives the Governor pardoning power as follows:

“In all criminal and penal cases, except in those of treason and impeachment, the Governor shall have power to grant reprieves, commutations of sentence and pardons after conviction; and to remit fines and forfeitures under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons; and he may, in the recess of the Senate, respite the sentence until the adjournment of the next regular session of the General Assembly. He shall communicate to the General Assembly at every regular session each case of reprieve, commutation or pardon, with his reasons therefore, stating the name and crime of the convict, the sentence, its date and the date of the commutation, pardon or reprieve.”

## **Eligibility and Application for Executive Clemency**

The eligibility criteria for the various forms of executive clemency are listed on the applications. A person who is incarcerated may request an application form from the Institutional Release Officer (IRO) unless the applicant has a pending clemency request. The incarcerated person must return the completed application to the IRO. Once an application is submitted for screening and/or consideration, the process cannot be interrupted.

For persons who are not currently incarcerated, an application form can be obtained from, and completed applications sent to, the Arkansas Department of Community Correction, Institutional Release Services; 2801 South Olive, Suite 6-D, Pine Bluff, Arkansas 71601.

Inmates serving a death penalty must file an application for executive clemency as described in the application form. Further information on the application process can be found on pages 16-18 of this manual.

An application for executive clemency must set forth the grounds upon which the pardon or commutation is sought. Following are examples of grounds upon which an application may be filed: (1) to correct an injustice which may have occurred during the person's trial; (2) life threatening medical condition (also see Ark. Code Ann. §12-29-404) (3) to reduce an excessive sentence; or (4) the person's institutional adjustment has been exemplary, and the ends of justice have been achieved.

Any person who files for clemency and is denied by the Governor shall not be eligible to reapply for a period of four (4) years from the date of application. If the applicant is serving a life sentence without parole, they will not be eligible to reapply for six (6) years from the date of denial. However, a person who is denied by the Governor, can petition the Board of Parole for a waiver of the waiting period.

## **Required Notice of a Clemency Request and Request for Comment**

In addition to any other requirements, the Executive Clemency Coordinator will solicit the written or oral recommendations from the sentencing court the prosecuting attorney, and the sheriff of the county from which the person was committed.

If the inmate is serving a sentence for capital murder (Ark. Code Ann. §5-10-101 and 5-4-607(a)(1)) or a Class Y, Class A, or Class B felony, copies of the application will be filed with the Secretary of State, the Attorney General, the Sheriff of the county in which the offense was committed, the Prosecuting Attorney of the judicial district in which the applicant was found guilty and sentenced and the Circuit Judge who presided over the proceedings at which the applicant was found guilty and sentenced or his/her successor.

If the inmate is serving a sentence for capital murder (Ark. Code Ann. §5-10-101), the application will also be published by the Executive Clemency Coordinator by placing two insertions, separated by a minimum of seven (7) days, in a newspaper of general circulation in the county in which the applicant committed the offense.

For crimes described in this section, the Executive Clemency Coordinator will send notification of the person's application to the victim(s) (or the victim(s)' next-of-kin), at their last known address(es), when the victim/next-of-kin has registered to receive such notices. The notice will solicit a written or oral recommendation.

The Executive Clemency Coordinator will use the electronic Offender Management System (eOMIS) to ask the Parole/Probation Officer to prepare a field report. As part of a field report, the officer contacts the prosecuting attorney and asks whether there are any victims or next-of-kin who have requested notification (and checks eOMIS for this information). If there are, the officer sends them notification of the clemency application and informs the Executive Clemency Coordinator of this action. When the suspense date for comments has passed, the Executive Clemency Coordinator assembles a file and sends it to the Board for consideration.

### **Supplemental Guidance Pertaining to Death Sentence Cases**

In death sentence cases, executive clemency requests must be in the time period described on the application form. When the Governor sets an execution date, the Institutional Release office will cause to be sent to the inmate and the inmate's attorney of record certified letters informing them that an application for executive clemency must be filed no later than 40 days prior to the scheduled execution date. Executive clemency requests filed late will not be considered. The last date on which an application for executive clemency will be accepted will be specified in the letters. This date will be determined by counting back 40 days from the scheduled date of execution, with the day preceding the scheduled date of execution being counted as day 1. If the 40<sup>th</sup> day is a Saturday, Sunday, or holiday, an application filed on the next business day will be accepted.

At least 30 days prior to the execution date, the Board, with a quorum of members present, must conduct a hearing with the inmate who has submitted an executive clemency request. Additional instructions are at attachment 1. In clemency death sentence cases, a hearing is mandatory.

### **Date and Place of Filing**

An application for executive clemency will be considered as having been filed when it is received by the Department of Community Correction, Institutional Release Office. The address is on the application form.

### **Board Investigation, Review, and Report**

At least four Board members will individually review each clemency file. Board members will vote to recommend that clemency be denied or to schedule the person for a hearing before the Board (a hearing is required for death sentence cases, see above details). If any Board member requests a hearing, a hearing will be scheduled. Board members may request supplemental information or take other reasonable actions to ensure a complete investigation prior to making a decision. The file is then returned to the DCC Institutional Release Office, Executive Clemency Coordinator.

If a hearing is granted, the Executive Clemency Coordinator will notify the victim(s) (or the victim(s)' next-of-kin) and will ask the IRO to schedule a hearing at least 30 days from the time notice of the hearing was given to the victim(s) (or the victim(s)' next-of-kin).

### **Hearing Process**

An applicant for executive clemency who appears before the Board may be accompanied by supporters, including his/her attorney. If the person is not incarcerated in this state, his/her

appearance before the Board is not necessary. The Board shall consider the statements of the applicant and a spokesperson, the applicant's file, reports from law enforcement, a pre-sentence report and any documentary evidence presented by the applicant or other interested persons, including the victim(s) (or the victim(s)' next-of-kin). On the basis of this information, the Board will vote (1) to recommend that clemency be granted, or (2) to recommend that clemency be denied. If the Board recommends that clemency be granted, it may specify the nature and terms of the commutation being recommended. There are some differences in this process for inmates sentenced to death, as described in the "Supplemental Guidance Pertaining to Death Sentence Cases" paragraph.

### **After the Board Review/Hearing**

The Board shall submit to the Governor its recommendation, a report of the investigation, and all other information the Board may have regarding the applicant (Ark Code Ann. §16-93-204). All applications for executive clemency considered by the Board, with the non-binding recommendation will be forwarded to the Governor for final action.

### **Clemency Appeals**

There is no appeal of the Board's recommendation. There is no appeal of the Governor's decision. When the situation merits a new clemency application may be submitted, subject to the statutory timeframes listed on page 16 of this manual.

## **BOARD MANAGEMENT AND ADMINISTRATION**

### **Policy Manual Availability and Review**

The Board Chairperson will ask the Department of Correction and Department of Community Correction to make this policy manual readily available to inmates, residents and parolees. The Board Chairperson will also ensure the policy is available to staff and the public. The Board Chairperson will initiate an annual review by all Board members of the Board's policies and will ensure that revisions and updates are undertaken when necessary. The Board's designee for maintaining this policy manual is the Accreditation Coordinator.

### **Access to Persons and Records**

All ADC and DCC officials have a legal duty to grant to Board members and properly accredited Board representatives, access at all reasonable times to any person over whom the Board has jurisdiction, to provide facilities for communicating with and observing such persons, to furnish the Board such reports as the Board shall require concerning the conduct and character of any person in the custody of the Department of Correction or Department of Community Correction, and to provide any information deemed pertinent by the Board in determining whether a person shall be released.

### **Legal Assistance**

Board members may seek legal advice from the DCC Staff Attorney or an assigned attorney at the State Attorney General's Office. The State Attorney General will represent the Board when required.

## **Inspection of Records**

The Board of Parole staff will not release information to inmates or the public unless authorized in this manual or in writing by the Board Chairperson. All requests for information should be forwarded to the Department of Community Correction Public Relations Office.

Parole and Executive Clemency Files – Pursuant to the provisions of Ark. Code Ann. §16-93-202, the following portions of Parole and Clemency files will be provided by the DCC Public Relations Office for inspection upon request by a person having a proper interest therein and whenever the interests or welfare of the person involved make inspection desirable or helpful: 153 forms, Executive Clemency (commutation & pardon) applications, and vote worksheets. The Public Relations Office may release other information unless restricted by law. The Board Chairperson or Public Relations Office may release information to researchers and others involved in monitoring or studying the criminal justice system unless restricted by law.

## **Expunging Records (Act 378 Participants)**

A person sentenced to the Department of Correction under Act 378 of 1975, as amended (Ark Code Ann. §16-93-501 *et seq.*), shall receive an expungement of his/her records by the following process:

After the person discharges the entire sentence imposed by the Court, a report will be submitted by the Department of Correction to the Chairperson of the Board of Parole. After reviewing the information, the Chairperson shall approve an expungement, if required by law.

Upon approval, the Chairperson, or his/her designee, shall complete a Certificate of Expungement, which shall be forwarded to the person by the Department of Correction staff.

The Department of Correction staff will notify all pertinent law enforcement agencies and the Circuit Clerk's office(s) that the person's record has been expunged. The record will then be sealed and sequestered, to be made available only to law enforcement or judicial officials.

## **Participation of Parolee in Law Enforcement Undercover Operations**

The Board will not authorize a parolee to participate in any Law Enforcement Undercover Operation. However, the Director of the Department of Community Correction may authorize parolee participation in undercover investigations in a manner consistent with Department of Community Correction policy.

## **Additional Information about Related Activities Accomplished by Other Agencies**

In addition to related tasks described elsewhere in this manual, other agencies accomplish the following tasks in support of the Board's mission.

The agency to which an offender is committed (ADC or DCC) will promptly inform every registered victim and next-of-kin of the offender's estimated date of release from incarceration, as well as each of the following events:

- An escape from a correctional facility or community program;
- A recapture;
- A decision of the Governor to commute the sentence or to pardon;

- A release from incarceration and any conditions attached to the release; and
- The offender's death

### **Facilities and Equipment**

The Chairperson will ensure staff has adequate equipment and space with appropriate privacy as necessary for the effective and efficient processing of business.

### **Planning, Goals, Objectives, and Program Coordination**

The Chairperson must accomplish the following:

1. Participate in Board of Corrections meetings to facilitate planning.
2. Meet at least annually with the ADC and DCC Directors, and as necessary with the Sentencing Commission to coordinate programs and facilitate joint State-wide planning.
3. Meet at least semiannually with the director(s) of institutions from which parole is granted.
4. Ensure the Board has written long-range goals and related objectives and that these are reviewed, updated as needed, and evaluated for progress.
5. Maintain regular liaison with appropriate legislative committees, during at least each regular session of the legislature, for the purposes of offering advice and opinions on appropriate legislative matters.

The Chairperson or designee, will meet at least annually with the administrative staff of the parole investigation and supervision agency to ensure a means exists for coordinating efforts, to undertake joint planning, and to agree on means of implementing and evaluating such plans.

The Chairperson or designee will meet at least annually with representatives of relevant criminal justice agencies, police, prosecution and courts to develop a means of coordinating programs, to undertake joint planning and to agree on means of implementing and evaluating such plans.

Each Board member will visit one or more institutions and a representative sample of community facilities at least annually, specifically for the purpose of meeting with staff and inmates/residents to exchange information about programs, institutional operations, and parole policies and procedures. The Chairperson, as the chief administrative officer of the Board, is exempted from this requirement. Minutes or notes from such visits must be provided to the Accreditation Coordinator.

Board members and Hearing Examiners must initiate ongoing interaction with the Parole/Probation Services staff through such means as conferences, seminars, training sessions, and visits to field offices.

### **Financial Processes and Controls**

The Board must have a budget system which links continuing basis program functions and activities to the costs necessary for their support. There must be a clearly defined budget which provides for personnel, operating, and travel costs sufficient for the operation of the Board. The Chairperson must ensure the budgetary process includes financial controls and monitoring of expenses. The Chairperson must ensure a detailed budget request is submitted and must

participate in the legislative budget allocation process. In preparing the budget, input from Board members and staff must be solicited.

### **Additional Chairperson Duties**

The Chairperson has the following additional administrative responsibilities:

1. Coordinate Board member work schedules and job assignments
2. Chair Board meetings
3. Serve as the official spokesperson, however, he/she may use the DCC Public Relations person as a media spokesperson as long as the Chairperson ensures that the Public Relations person fully understands the Board policies and positions on matters of public interest.
4. Organizing, controlling, and tracking the work of the Board's staff.

### **Personnel & Staffing Guidelines**

The Chairperson will from time to time assess the staffing mix to determine it reasonably matches the local population in terms of racial mix, thereby meeting or exceeding the intent of the affirmative action program. When necessary, deficiencies will be documented and an affirmative action plan will be put in place. Pay rates will also be assessed to ensure they compare favorably with comparable positions in the community.

Hearing Examiners must have a minimum of a baccalaureate degree unless there is documented justification of experience that can be reasonably substituted. At least 2/3 of the Hearing Examiners must have at 3 or more years experience in a criminal justice or juvenile justice experience, or equivalent experience in a relevant profession

### **Training**

The Chairperson is responsible for ensuring orientation of new employees and in service staff training programs.

The training program for all employees must be coordinated and supervised by a qualified staff member at a supervisory level.

There must be a written training and staff development plan for all employees.

The training curriculum must be developed, evaluated, and updated based on an annual needs assessment that identifies current job-related training needs.

Forty hours of initial orientation training must be provided for all fulltime employees including new Board members, prior to their assuming assigned duties.

Board members and all full-time employees except clerical staff must receive a minimum of 40 hours of relevant training and education annually in addition to administrative staff meetings. Full-time clerical must receive at least 16 hours of training annually in addition to administrative staff meetings.



## **Data Collection, Research, Analysis, and Reports**

The Board will gather data throughout the year from such sources as the electronic Offender Management Information System (eOMIS). At least annually the Board will review and analyze the parole decision-making, statistical, and research data.

Consistent with confidentiality requirements, the Chairperson or his/her designee will collaborate with criminal justice and human service agencies on programs of information gathering, exchange, and standardization, including national data collection efforts.

Board and staff members and external research professionals are encouraged to conduct research.

Board members and designated staff will work with researchers in deciding which questions should be addressed, which data should be gathered, and how data should be presented.

The Board Chairperson must review and approve all research study plans before implementation. This review should ensure the privacy interests of offenders and other parties for the cases under study are protected.

The Board Chairperson and others involved in parole decision-making will use statistical and research data among other factors in making decisions and policy development.

The Board and staff will use the electronic Offender Management Information System (eOMIS) as a key element in their research and decision-making system.

The Board will collect data for outcome measures by using eOMIS or other means. Outcome measures may be based on ACA recommendations, the uniform parole reporting system, or internally developed data elements. As part of this process, the Chairperson or designated staff members will obtain information from the eOMIS at least quarterly.

Custom reports, to display eOMIS data suitable for outcome measures and special studies, may be requested from the DCC Research and Evaluation section.

The Chairperson will ensure results of significant research projects are provided to the appropriate staff and others. Additionally, copies will be made available to the public upon request.

The Chairperson will submit an annual report to the Governor and the General Assembly. The report will include the Board's objectives, trends in parole release, discharges and revocations, problems, and plans.

## **ATTACHMENTS**

- Attachment 1 Form 153 – Law Enforcement Response
- Attachment 2 Policies and Procedures for Executive Clemency Application by Persons Sentenced to Death
- Attachment 3 Conditions of Release
- Attachment 4 Employee Acknowledgement of Board Policy Manual

**FOR EXAMPLE PURPOSES ONLY. AN OFFICIAL FORM WILL BE GENERATED BY DCC INSTITUTIONAL RELEASE SERVICES.**

Arkansas Parole Board  
 Transfer Eligibility (TE) Applicants  
 Legal Notice – Form 153 (Law Enforcement Response)

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Re: \_\_\_\_\_ ADC #: \_\_\_\_\_ Location: \_\_\_\_\_

TE Date \_\_\_\_\_ Board Hearing Date: \_\_\_\_\_

The Parole Board requests your recommendation on the above-named inmate who is scheduled to be interviewed for Transfer Eligibility.

Our file(s) contain the following information:

County	Docket	Crime	Counts	Sentence Date

Total Sentence Length: \_\_\_\_\_ Minimum Release Date \_\_\_\_\_

This individual is scheduled to appear before the Board for consideration of Transfer Eligibility in the near future. The Board is requesting your comments which will be placed in his file and considered when reviewing for Transfer Eligibility. If the Board defers action for one year, an additional recommendation will be requested. **List specific reasons for your support or opposition to this individual's transfer. Attach additional pages if necessary.**

Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Return form to:  
 DCC Institutional Release Services  
 2801 South Olive St, Suite 6-D  
 Pine Bluff, AR 71601

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ARKANSAS BOARD OF PAROLE  
POLICIES AND PROCEDURES FOR EXECUTIVE CLEMENCY APPLICATION  
BY PERSONS SENTENCED TO DEATH**

1. Any person sentenced to death may apply for executive clemency (Arkansas Constitution, Article 6, Section 18).
2. An application for executive clemency must be filed no later than 40 days prior to the scheduled execution date.
3. An application for executive clemency will be considered as having been duly filed once it is received at the Arkansas Department of Community Correction, Institutional Release Services; 2801 South Olive, Suite 6-D, Pine Bluff, Arkansas 71601.
4. All exhibits or supporting documentation to be considered by the Board of Parole should be attached to the executive clemency application at the time of filing.
5. The application shall set forth the specific reasons or grounds upon which executive clemency is requested. Failure to set forth specific grounds shall be cause for rejection and return of the application.
6. The Board of Parole, meeting in regular or special session, will interview the inmate concerning his/her request for executive clemency at least 30 days prior to the execution date.
7. The applicant's attorney will submit a list of all persons who will appear at the executive clemency hearing on behalf of the inmate to the Board of Parole and the Warden of the maximum security unit on the day prior to the hearing. The list must show complete names and relationship to the inmate.
8. The time allocated for all presentations and/or testimony by the inmate, attorney and/or witnesses at the executive clemency hearing will be limited to a total of two hours.
9. No more than four (4) persons (the inmate, attorney, and two others) may present arguments and/or testify to the Board of Parole at the executive clemency hearing. The Board will accept written statements by other interested persons.
10. Tape recordings of the executive clemency hearing will not be transcribed, but will be sent directly to the governor with the clemency file and supporting evidence. The inmate is responsible for providing recorders and/or stenographers should a transcript be desired.
11. The Board of Parole's decision will be available within 72 hours after the completion of hearings for the inmate and protesters.
12. The Board Chairperson, with the approval of the Board of Parole, will make an exception to these policies and procedures in the interest of justice.

\_\_\_\_\_  
**Signature on File**  
**Board of Parole Chairperson**

\_\_\_\_\_  
**January 28, 2010**  
**Date**

**Arkansas Board of Parole  
Conditions of Release**

1. **REPORTS.** You must report to your supervising officer within 24 hours after your release. Thereafter, you must report as instructed by your supervising officer. All written and oral statements made by you to your supervising officer must be truthful.
2. **EMPLOYMENT/EDUCATION.** You must maintain approved employment or be enrolled in an approved education program unless otherwise directed. You must obtain permission from your supervising officer before quitting your employment or education program. If you lose your job or are terminated from your education program, you must notify your supervising officer within 48 hours.
3. **RESIDENCE AND TRAVEL.** You must obtain prior approval from you supervising officer to change your place of residence, stay away from your approved residence overnight, or leave your assigned county.
4. **LAWS.** You must obey all federal and state laws, local ordinances and court orders. You must report any arrest, citation, or summons to your supervising officer within 48 hours.
5. **WEAPONS.** You must not own, possess, use, pawn, sell or have under you control any firearm (or imitation) or other dangerous weapon, or be in the company of any person possessing such weapons. You must not possess any ammunition.
6. **ALCOHOL/CONTROLLED SUBSTANCES.** You will avoid the excessive use of alcohol, or abstain completely if directed, and will stay out of bars, taverns, clubs, and liquor stores. You must not sell, deliver or possess, or use controlled substances except as prescribed by a physician. You will submit yourself to random testing for the use of intoxicants and/or controlled substances.
7. **ASSOCIATION.** You must not associate with convicted felons, persons who are engaged in criminal activity, or other persons with whom your supervising officer instructs you not to associate. (Association with convicted felons at work, in counseling programs, in church, or in other locations and circumstances specifically approved by the Board of Parole or your supervising officer is not prohibited).
8. **SUPERVISION FEES.** You must pay a monthly supervision fee unless granted an exemption. Community service work in lieu of supervision fees may be required.
9. **COOPERATION.** You must, at all times, cooperate with your supervising officer and the Board of Parole. You must submit yourself to any rehabilitative, medical, or counseling program that the Board of Parole or your supervising officer deems appropriate.
10. **SEARCH AND SEIZURE.** You must submit your person, place of residence, and motor vehicles to search and seizure at any time, day or night, with or without a search warrant, by any Department of Community Correction officer.
11. **WAIVER OF EXTRADITION.** Your acceptance of conditional release constitutes an agreement to waive extradition to the State of Arkansas from any jurisdiction in or outside the United States where you may be found, and you also agree that you will not contest any effort by any jurisdiction to return you to the State of Arkansas to answer a charge of violation of any of the conditions of your release.
12. **SPECIAL CONDITIONS.** The Board may set special conditions and the parolee must abide by any special conditions set by the Board, e.g., mental health, alcohol and/or drug abuse treatment program, or community service in lieu of fee exemption.

**Employee Acknowledgement of Board of Parole Policy Manual**

Please acknowledge by signing that you have read and understood the Arkansas Board of Parole Policy Manual.

All employees or officials of the Arkansas Board of Parole are responsible for complying with all pertinent policies. The Fiscal/Human Resources Section will place a signed copy of this form in your personnel file.

This form must be signed and returned within five days of receipt.

**Employee Acknowledgement:**

_____	_____
<b>PRINT NAME</b>	<b>SIGNATURE</b>
_____	_____
<b>SECTION</b>	<b>DATE</b>

**Supervisor Confirmation:**

_____	_____
<b>PRINT NAME</b>	<b>SIGNATURE</b>
_____	_____
<b>SECTION</b>	<b>DATE</b>