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BOARD Rules

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ORS
DEPARTMENT OF STATE

STATE OF OREGON

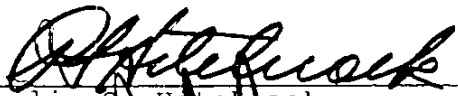

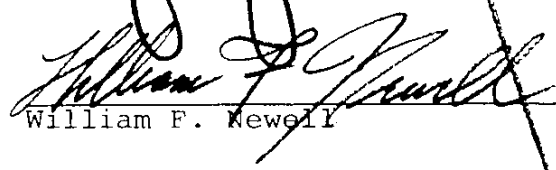
STATE BOARD OF PAROLE
Department of Human Resources

In the Matter of Procedures for) NOTICE OF ADOPTION
the Granting, Denial, Revocation) OF TEMPORARY RULES
and Discharge of Parole.)

Oregon Laws 1973, ch 694 (SB 379) requires the Board to establish procedures relating to the granting, denial, revocation and discharge of parole. The bill also made the Board subject to the rule making requirements of the Administrative Procedure Act, ORS ch 183.

The legislature declared an emergency in the enactment of SB 379, therefore, it is necessary that these rules be adopted as temporary rules under the authority of ORS 183.335(2). The attached procedural rules are therefore adopted as temporary rules to be in force for 120 days, or until permanent rules are adopted, whichever shall occur first.

DATED November 1, 1973.


Philip S. Hitchcock

Terry L. Johnson

William F. Newell

STATE OF OREGON

BOARD OF PAROLE
Department of Human Resources

PROCEDURAL RULES FOR HEARINGS AND MEETINGS

Effective Date

November 1, 1973

Temporary Adoption, Permanent Filed 2/25/74

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TEMPORARY AND
PROPOSED RULES

Board of Parole Hearing Procedures

I BOARD MEETINGS AND PRELIMINARY HEARING SCHEDULE

- A. Business Meetings. Business meetings will be held as scheduled by the chairman. A schedule of business meetings for a 30-day period will be available on request.
- (1) Agenda - The business meetings of the board will consider matters on the agenda circulated by the chairman. Other matters may be proposed by members.
 - (2) Quorum - A business meeting requires the presence of a quorum of the Board.
 - (3) Public and Representative Attendance - Members of the public and representatives of persons committed to the legal and physical custody of the Corrections Division of the Department of Human Resources may, with the permission of the chairman, attend all or designated portions of the Board's business meetings and present information and documents pertinent to matters under review by the Board.
- B. Parole Meetings. The Board will hold regular meetings as scheduled by the chairman at which it will consider preliminary and final decisions relating to the granting of parole.
- (1) Preliminary and Review Hearings - The agenda of preliminary and review hearings will be set by the chairman. The hearings may consider preliminary matters relating to the inmate's parole hearing date or review his institutional progress. Decisions of preliminary and review hearings are subject to modification at the discretion of a quorum of the Board.
 - (2) Parole Hearing - On previously determined occasions, set by the chairman, the Board will conduct a hearing to determine whether it should grant, defer or deny parole to a person committed to the custody of the Corrections Division.
 - (3) Representation at Preliminary and Parole Hearings - Hearings relating to preliminary matters and parole hearings shall be conducted by the Board with the

inmate present. Representatives of the inmate, including attorneys, shall not be present. Matters on behalf of the inmate may be presented to the Board at business meetings according to Rule I A(3) above, before or after the preliminary or parole hearing.

C. Hearing Schedule Policy. The Board may at any time, schedule a preliminary or parole hearing, but it is the general policy of the Board to schedule hearings within the following periods:

(1) Parole Hearings will be scheduled as follows:

(a) On a sentence of 12-13 months, not later than the third month.

(b) On a sentence of 14-16 months, not later than the fourth month.

(c) On a sentence of 17-19 months, not later than the fifth month.

(d) On a sentence of 20-36 months, not later than the sixth month.

(2) Preliminary Hearings on a sentence in excess of 36 months, not later than the sixth month.

(3) Inmates of County Jails serving sentences of 6-12 months shall be scheduled for parole hearing upon application.

II PAROLE HEARING PROCEDURE

The following procedure will be followed in a hearing which may result in the granting of parole. Preliminary and review hearings which will only result in the setting of a date for a parole hearing, or which will only review institutional progress will not require parole hearing procedure.

A. Notice. At a reasonable time prior to a parole hearing, the Board will direct a written notice to the inmate at his place of custody of the scheduled parole hearing. The notice will tell the inmate of the time and place of the hearing and the legal action the Board may take. The notice will also advise the inmate that he may provide information to the Board and the means by which the information may be provided.

B. Record. A record of the parole hearing will be kept by the Board. The record will contain:

- (1) Documents considered by the Board at the hearing.
 - (2) A record of the oral proceedings at the hearing, with the exception of the deliberations of the Board. The record may be kept by any manual or electronic means which is capable of transcription. The designations of the documents considered by the Board may be indicated in the record of the oral proceedings.
- C. Notice or Order. After deliberation the Board may notify the inmate orally of its decision at the parole hearing. Subsequently, the Board will provide the inmate with written notice of the decision; the oral notification may, and the written notice shall advise the inmate of his right to judicial review under ORS 144.335.
- D. Out-Of-State Hearings. If an inmate has been transferred to custody in some state other than Oregon, one or more Board members designated by the chairman, will interview the inmate at the place of confinement and will make a full report and recommendation to the other members. After deliberation the Board will notify the inmate in writing as indicated in II C above.

III PAROLE REVOCATION HEARING

Active parole status will only be revoked after the following procedures have been followed:

- A. Notice. Within a reasonable time before a hearing which may result in the revocation of active parole status, the parolee shall receive a notice containing the following information:
- (1) A concise written statement of the suspected violations and the evidence which forms the basis of the alleged violations.
 - (2) The parolee's right to a hearing and the time, place and purpose of the hearing.
 - (3) The names of persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purposes of confrontation and cross-examination, unless it has been determined that there is good cause for not allowing confrontation.
 - (4) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that in-

formants would be subject to risk of harm if their identity were disclosed.

- (5) The parolee's right to subpoena witnesses under ORS 144.347.
- (6) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed at state expense if the Board or its designated representative determines, after request, that the request is based on a timely and colorable claim that:
 - (a) The parolee has not committed the alleged violation of the conditions upon which he is at liberty; or
 - (b) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
 - (c) The parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

B. Waiver. After notice, as set out above, and full advice of rights, the parolee may waive his right to a parole revocation hearing and elect to proceed under one of the following procedures.

- (1) Admission of Violation - If the parolee waives his right to a revocation proceeding and admits the violation of the condition of his parole he may present to the Board, or its representative, information in mitigation of the violation. If the information in mitigation is presented to the Board representative or Board member, the record of the proceeding, together with proposed findings, conclusion and order shall be transmitted to the Board for consideration as in Rule III D and E hereafter.
- (2) Non-contested Violation - The parolee may elect to neither admit nor deny the violation but present information supporting his retention of active parole status. Such information will be received by the Board or its representative and the procedures established above for admitted violations will be followed.
- (3) Representation - Waiver of right to revocation hearing includes a waiver of the right to representation during presentation of mitigation and other information.

- (4) Notice of Right to Judicial Review - The Board's final order will be forwarded to the parolee with notice of his right to judicial review under ORS 144.335.
- (5) Form of Waiver - The waiver shall be in writing on a form provided by the Board.

C. Hearings.

- (1) Officers - In addition to the Board, revocation hearings may be conducted by Board members or a person designated by the Board to conduct the hearing.
- (2) Evidence - At revocation hearings, the following material may be received in evidence.
 - (a) Oral testimony under oath.
 - (b) Reports made in the course of official duty or professional practice including, but not limited to, reports of law enforcement officers, parole officers, social workers, doctors and attorneys.
 - (c) Documents which the Board determines to be relevant, material and reliable.
 - (d) If the Board determines evidence to be relevant, material and reliable, it shall not be excluded on the grounds of hearsay or lack of opportunity for cross-examination.
 - (e) Information adverse to the parolee may be received in evidence without disclosure of the identity of the source of the information to the parolee, if the Board or its representative determines there is good cause for nondisclosure. The basis of the Board's or its representative's determination shall be made a part of the record and shall be sealed. This record shall only be available to the Board or a reviewing judicial body.

D. Record of Hearing. A record shall be made of the revocation hearing which shall include all evidence received and considered, and a mechanical recording of all oral testimony and presentations. Transcriptions of oral material will only be made for purposes of judicial review pursuant to ORS 144.335.

E. Findings, Conclusions and Orders.

- (1) Proposed - If the hearing is conducted by a Board member or Board representative, after the hearing the person conducting the hearing shall provide

the Board and the parolee with a proposed findings of fact, conclusions of law and order. The parolee shall have 10 days from the date of mailing of the proposed findings and conclusion and order to file written exceptions and arguments with the Board. Proposed findings are not required if the hearing is conducted by a quorum of the Board.

- (2) Final - A quorum of the Board may adopt the proposed findings, conclusions and order or modify them or adopt other findings, conclusions and orders. A copy of the final findings, conclusions and orders will be forwarded to the parolee with notice of his right to judicial review under ORS 144.335.
- F. Future Disposition Hearing. Within 20 days of return to confinement of a parolee whose parole has been revoked, there will be scheduled and conducted a hearing before the Board to establish future disposition of the parolee. This hearing shall be conducted under the procedures of a parole hearing as provided in Rule II above.
- G. Attorney Representation. At revocation hearings parolees have the right to be represented by counsel.
- H. Counsel at State Expense. Counsel will be appointed to represent a parolee at state expense upon request and showing that the parolee is indigent and the request is based on a timely and colorable claim that:
- (1) The parolee has not committed the alleged violation of the conditions upon which he is at liberty; or
 - (2) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
 - (3) The parolee, in doubtful cases, appears to be incapable of speaking effectively for himself; or
 - (4) If counsel has been requested and denied, the proposed order will reflect the grounds of the denial.

IV DISCHARGE OF PAROLE

- A. Applications for Discharge of Parole. Applications for discharge of parole must be in writing and may be filed by parole officers, parolees or legal counsel on their behalf.

- B. Parole Officer's Recommendation. Upon applications for discharge of parole, the Board will obtain and consider the recommendation of the parole officer.
- C. Hearing. The Board may set a hearing to consider the application for discharge of parole. The hearing will be conducted in accordance with the procedure established for a parole hearing in Rule II above.

V RESCISSION OF PENDING PAROLE

The Board may rescind a parole after it has been granted, but before release from custody, by conducting a hearing in accordance with the procedure established for a parole hearing in Rule II above.

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3-25-74

Procedures for granting
parole, revocation and
discharge of parole

EFF

225-74

LEE JOHNSON
ATTORNEY GENERAL



JAMES W. DURHAM
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
APPELLATE DIVISION
101 STATE OFFICE BUILDING
SALEM, OREGON 97310
TELEPHONE: (503) 378-4402

February 5, 1974

Ms. Ione Hanson
Secretary of State's Office
State Capitol Building
Salem, OR 97310

Re: Board of Parole's Adoption of Rules

Dear Ms. Hanson

Enclosed please find Board of Parole's notice of adoption of rules of procedure with a copy of the rules adopted for publication in the February 15, 1974 Secretary of State's Administrative Rule Bulletin.

Sincerely

Scott M. Alister for

Al J. Laue
Assistant Attorney General

sd
Enclosures

STATE OF OREGON

BOARD OF PAROLE
Department of Human Resources

In the Matter of Procedures)
for the Granting, Denial,) NOTICE OF ADOPTION
Revocation and Discharge of) OF RULES OF PROCEDURE
Parole.)

After notice, public hearing and receipt of data, views and comments, the State Board of Parole adopts permanent rules of procedure for the granting, denial, revocation and discharge of parole.

These rules shall be effective February 25, 1974, and shall supersede the temporary rules previously adopted November 1, 1973.


The attached rules are certified to be a copy of the rules adopted by the Board.

DATED: February 15, 1974.

BOARD OF PAROLE


Philip S. Hitchcock


Terry L. Johnson


William F. Newell

STATE OF OREGON

BOARD OF PAROLE
Department of Human Resources

PROCEDURAL RULES FOR HEARINGS AND MEETINGS

Effective Date
February 25, 1974

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Board of Parole Hearing Procedures

I BOARD MEETINGS AND PRELIMINARY HEARING SCHEDULE

A. Business Meetings. Business meetings will be held as scheduled by the chairman. A schedule of business meetings for a 30-day period will be available on request.

- (1) Agenda - The business meetings of the board will consider matters on the agenda circulated by the chairman. Other matters may be proposed by members.
- (2) Quorum - A business meeting requires the presence of a quorum of the Board.
- (3) Public and Representative Attendance - Members of the public and representatives of persons committed to the legal and physical custody of the Corrections Division of the Department of Human Resources may, with the permission of the chairman, attend all or designated portions of the Board's business meetings and present information and documents pertinent to matters under review by the Board.

B. Parole Meetings. The Board will hold regular meetings as scheduled by the chairman at which it will consider preliminary and final decisions relating to the granting of parole.

- (1) Preliminary and Review Hearings - The agenda of preliminary and review hearings will be set by the chairman. The hearings may consider preliminary matters relating to the inmate's parole hearing date or review his institutional progress. Decisions of preliminary and review hearings are subject to modification at the discretion of a quorum of the Board.
- (2) Parole Hearing - On previously determined occasions, set by the chairman, the Board will conduct a hearing to determine whether it should grant, defer or deny parole to a person committed to the custody of the Corrections Division.
- (3) Representation at Preliminary and Parole Hearings - Hearings relating to preliminary matters and parole hearings shall be conducted by the Board with the

inmate present. Representatives of the inmate, including attorneys, shall not be present. Matters on behalf of the inmate may be presented to the Board at business meetings according to Rule I-A(3) above, before or after the preliminary or parole hearing.

C. Hearing Schedule Policy. The Board may at any time, schedule a preliminary, review or parole hearing, but it is the general policy of the Board to schedule hearings within the following periods:

(1) Parole Hearings will be scheduled as follows:

(a) On a sentence of 12-13 months, not later than the third month.

(b) On a sentence of 14-16 months, not later than the fourth month.

(c) On a sentence of 17-19 months, not later than the fifth month.

(d) On a sentence of 20-36 months, not later than the sixth month.

(2) Preliminary Hearings on a sentence in excess of 36 months, not later than the sixth month.

(3) Inmates of County Jails serving sentences of 6-12 months shall be scheduled for parole hearing upon application.

D. Escapees. In cases of return of escapees to the institutions, the Board may adjust the escapee's parole consideration schedule administratively without conducting a hearing at which the inmate is present.

II PAROLE HEARING PROCEDURE

The following procedure will be followed in a hearing which may result in the granting of parole. Preliminary and review hearings which will only result in the setting of a date for a parole hearing, or which will only review institutional progress will not require parole hearing procedure.

A. Notice. At a reasonable time prior to a parole hearing, the Board will direct a written notice to the inmate at his place of custody of the scheduled parole hearing. The notice will tell the inmate of the time and place of the hearing and the legal action the Board may take. The notice will also advise the inmate that he may provide information to the Board and the means by which the information may be provided.

- B. Record. A record of the parole hearing will be kept by the Board. The record will contain:
- (1) Documents considered by the Board at the hearing.
 - (2) A record of the oral proceedings at the hearing, with the exception of the deliberations of the Board. The record may be kept by any manual or electronic means which is capable of transcription. The designations of the documents considered by the Board may be indicated in the record of the oral proceedings.
- C. Notice or Order. After deliberation the Board may notify the inmate orally of its decision at the parole hearing. Subsequently, the Board will provide the inmate with written notice of the decision; the oral notification may, and the written notice shall advise the inmate of his right to judicial review under ORS 144.335.
- D. Out-Of-State Hearings. If an inmate has been transferred to custody in some state other than Oregon, one or more Board members designated by the chairman, will interview the inmate at the place of confinement and will make a full report and recommendation to the other members. After deliberation the Board will notify the inmate in writing as indicated in II C above.

III PAROLE REVOCATION HEARING

Active parole status will only be revoked after the following procedures have been followed:

- A. Notice. Within a reasonable time before a hearing which may result in the revocation of active parole status, the parolee shall receive a notice containing the following information:
- (1) A concise written statement of the suspected violations and the evidence which forms the basis of the alleged violations.
 - (2) The parolee's right to a hearing and the time, place and purpose of the hearing.
 - (3) The names of persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purposes of confrontation and cross-examination, unless it has been determined that there is good cause for not allowing confrontation.

- (4) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk of harm if their identity were disclosed.
- (5) The parolee's right to subpoena witnesses under ORS 144.347.
- (6) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed at state expense if the Board or its designated representative determines, after request, that the request is based on a timely and colorable claim that:
 - (a) The parolee has not committed the alleged violation of the conditions upon which he is at liberty; or
 - (b) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
 - (c) The parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

B. Waiver. After notice, as set out above, and full advice of rights, the parolee may waive his right to a parole revocation hearing and elect to proceed under one of the following procedures.

- (1) Admission of Violation - If the parolee waives his right to a revocation proceeding and admits the violation of the condition of his parole he may present to the Board, or its representative, information in mitigation of the violation. If the information in mitigation is presented to the Board representative or Board member, the record of the proceeding, together with proposed findings, conclusion and order shall be transmitted to the Board for consideration as in Rule III-D and E hereafter.
- (2) Non-contested Violation - The parolee may elect to neither admit nor deny the violation but present information supporting his retention of active parole status. Such information will be received by the Board or its representative and the procedures established above for admitted violations will be followed.

- (3) Representation - Waiver of right to revocation hearing includes a waiver of the right to representation during presentation of mitigation and other information.
- (4) Notice of Right to Judicial Review - The Board's final order will be forwarded to the parolee with notice of his right to judicial review under ORS 144.335.
- (5) Form of Waiver - The waiver shall be in writing on a form provided by the Board.

C. Hearings.

- (1) Officers - In addition to the Board, revocation hearings may be conducted by Board members or a person designated by the Board to conduct the hearing.
- (2) Evidence - At revocation hearings, the following material may be received in evidence.
 - (a) Oral testimony under oath.
 - (b) Reports made in the course of official duty or professional practice including, but not limited to, reports of law enforcement officers, parole officers, social workers, doctors and attorneys.
 - (c) Documents which the Board determines to be relevant, material and reliable.
 - (d) If the Board determines evidence to be relevant, material and reliable, it shall not be excluded on the grounds of hearsay or lack of opportunity for cross-examination.
 - (e) Information adverse to the parolee may be received in evidence without disclosure of the identity of the source of the information to the parolee, if the Board or its representative determines there is good cause for nondisclosure. The basis of the Board's or its representative's determination shall be made a part of the record and shall be sealed. This record shall only be available to the Board or a reviewing judicial body.

- D. Record of Hearing. A record shall be made of the revocation hearing which shall include all evidence received and considered, and a mechanical recording of all oral testimony and presentations. Transcriptions of oral material will only be made for purposes of judicial review pursuant to ORS 144.335.

- E. Findings, Conclusions and Order..
- (1) Proposed - If the hearing is conducted by a Board member or Board representative, after the hearing the person conducting the hearing shall provide the Board and the parolee with a proposed findings of fact, conclusions of law and order. The parolee shall have 10 days from the date of mailing of the proposed findings and conclusion and order to file written exceptions and arguments with the Board. Proposed findings are not required if the hearing is conducted by a quorum of the Board.
 - (2) Final - A quorum of the Board may adopt the proposed findings, conclusions and order or modify them or adopt other findings, conclusions and orders. A copy of the final findings, conclusions and orders will be forwarded to the parolee with notice of his right to judicial review under ORS 144.335.
- F. Future Disposition Hearing. Within 20 days of return to confinement of a parolee whose parole has been revoked, there will be scheduled and conducted a hearing before the Board to establish future disposition of the parolee. This hearing shall be conducted under the procedures of a parole hearing as provided in Rule 11 above.
- G. Attorney Representation. At revocation hearings parolees have the right to be represented by counsel.
- H. Counsel at State Expense. Counsel will be appointed to represent a parolee at state expense upon request and showing that the parolee is indigent and the request is based on a timely and colorable claim that:
- (1) The parolee has not committed the alleged violation of the conditions upon which he is at liberty; or
 - (2) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
 - (3) The parolee, in doubtful cases, appears to be incapable of speaking effectively for himself; or
 - (4) If counsel has been requested and denied, the proposed order will reflect the grounds of the denial.

IV DISCHARGE OF PAROLE

- A. Applications for Discharge of Parole. Applications for discharge of parole must be in writing and may be filed by parole officers, parolees or legal counsel on their behalf.
- B. Parole Officer's Recommendation. Upon applications for discharge of parole, the Board will obtain and consider the recommendation of the parole officer.
- C. Hearing. The Board may set a hearing to consider the application for discharge of parole. The hearing will be conducted in accordance with the procedure established for a parole hearing in Rule II above.

V RESCISSION OF PENDING PAROLE

The Board may rescind a parole after it has been granted, but before release from custody, by conducting a hearing in accordance with the procedure established for a parole hearing in Rule II above.

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F I L L E D	
FEB 8 1974 CLAY MYERS SECRETARY OF STATE	
Agency:	<i>Board of Parole</i>
Rule #:	2PB2
Adopted:	2-15-74
Effective:	2-25-74
Amends:	
Emergency Clause ()	
Sec. #:	
Authority:	
<i>Rules & Procedure</i>	

EFF

1-26-77

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

JAN 26 11 48 AM '77

CERTIFICATE

HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Oregon State Board of Parole

(Agency)

Date of adoption, amendment or repeal:

January 26, 1977

By:

Chas Blalock

(Authorized Signer)

Title: Chairman

FILED
JAN 26 1977
NOVIA PAULUS
SECRETARY OF STATE

RECEIVED
MAR 17 1993
BOARD OF PAROLE

Effective Date: January 26, 1977 Statutory Authority: ORS 144.005 - 144.390

Rule Number(s) 254 Oregon Administrative Rules, 10-005 through 10-025 repealed
254 Oregon Administrative Rules, 10-006 through 90-010 adopted
 New Rule Amends Repeals Temporary Permanent

Subject matter and purpose of rule: Governs rules and procedures of the agency. Revises and expands the same due to expansion of agency membership and statutory changes.

ORDER

The within matter having come before the Oregon State Board of Parole after publication of the intended action upon not less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm.

Temp.

Adopted: 254 O.A.R. 10-006 through 90-010

Amended: _____

Repealed: 254 O.A.R. 10-005 through 10-025

as Administrative Rules of the Oregon State Board of Parole

DATED this 26th day of January, 1977

By:

Chas Blalock

(Authorized Signer)

Title: Chairman

OREGON STATE BOARD OF PAROLE

In the Matter of Repeal and)
Adoption, Ch. 254 Oregon)
Administrative Rules pertaining) NOTICE OF ADOPTION OF TEMPORARY
to the State Board of Parole) RULES AND STATEMENT OF NEED

(1) On January 26, 1977 the Oregon State Board of Parole repealed Ch. 254, Oregon Administrative Rules, Sections 10-005 through 10-025, last promulgated on or about February 15, 1974 and published by the Secretary of State on or about May 15, 1974.

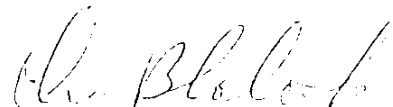
(2) The adoption substantially revises and expands the rules and procedures of the agency. New rules are 254-10-006 through 254-90-010.

(3) This adoption is needed at this time because of expansion of the membership of the agency after the 1975 Oregon Legislative Assembly, because of experience gained during the operation of the expanded agency under existing rules, and because of changes in ORS Ch. 144 concerning other procedures of the agency such as review periods for various categories of sentenced offenders.

(4) Interested parties may submit their data, views or arguments concerning this temporary amendment to Ira Blalock, Chairman, Oregon State Board of Parole, 2575 Center Street N.E., Salem, Oregon 97310.

(5) If an interested person wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he or she has to Mr. Blalock. A public hearing on the rule will be held if a request for public hearing is 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, you will be notified of the date, time and place of the hearing.

Dated January 26, 1977.



Ira Blalock
Chairman

BOARD OF PAROLE
(ORS Chapter 144)

Rules and Regulations cited as OAR ch 254

ORGANIZATION

10-006. Membership. The State Board of Parole shall consist of six persons. Five voting members appointed by the Governor, and the Administrator of the Corrections Division who shall have no vote.

10-011. Chairman. The chairman shall be a member of the Board selected by a majority vote. The chairman will have a minimum term of one year and may be removed by a unanimous vote of the Board members.

10-016. Chairman: Powers and Duties. The chairman shall have the powers and duties established by law and rules necessary for the performance of the office, including, but not limited to:

- (1) assign voting Board members to panels and appoint panel chairmen,
- (2) apportion matters to the panels and full Board for decision,
- (3) reassign matters to different panels when required by law or procedure,
- (4) schedule business meetings and develop the agenda,
- (5) inform the sentencing judge, district attorney, sheriff or arresting agency of the prospective release of each parolee and the conditions thereof,

Temporary Effective 1/26/77 to 5/25/77

- (6) review administrative appeals pursuant to Rule 80-005,
- (7) designate members to conduct interviews in accordance with Rule 50-025, and
- (8) any other duties necessary to the administration of the Board.

BUSINESS MEETINGS

20-005. Scheduling. Business meetings will be held as scheduled by the chairman or upon the request of at least two members.

20-010. Quorum. A business meeting requires three of the voting members of the Board.

20-015. Actions. The business meeting will consider matters relating to Board policy and administration raised by the agenda presented by the chairman or by Board members.

20-020. Decision. Three votes are required to make a Board decision at a business meeting.

PRELIMINARY HEARINGS

30-005. Scheduling. Every offender initially incarcerated at any institution of the Corrections Division will be scheduled for a preliminary hearing within six months of admission.

30-010. Panel Size. A preliminary hearing panel will consist of two voting members of the Board.

30-015. Actions. The panel may set a parole hearing date or deny parole. Prior to making a decision the panel may continue the hearing for a brief period of time if necessary.

30-020. Decisions. The decision of the panel must be unanimous. In the absence of a unanimous decision, each panel member will forward his recommendation to the Board and the matter will be referred to the chairman for reassignment. No matter so reassigned shall be decided by fewer than three affirmative votes. This may be done by another two-member panel reaching a unanimous decision in agreement with a member of the prior panel.

30-025. Appearance. No person, other than the inmate, shall appear in the inmate's behalf.

30-030. Parole Hearing Date. The action of the panel under Rule 30-015 shall be within the parameters set by Rules 30-031 through 30-033, unless the panel states specific reasons for departing from these standards.

30-031. Offense Severity. (1) The Board will use the following table to assess the seriousness of the offense and, subject to the exceptions in subsection (2), will assign a severity rating from one to seven:

<u>OFFENSE</u>	<u>RATING</u>
<u>Bribery</u>	
162.015 - Bribe Giving	3
162.025 - Bribe Receiving	3
<u>Perjury</u>	
162.065 - Perjury	2
<u>Escape Related</u>	
162.155 - Escape II	2
162.165 - Escape I	4
162.185 - Supplying Contraband	1
162.205 - Failure to Appear I	2
<u>Obstructing Governmental Administration</u>	
162.265 - Bribing a Witness	2
162.275 - Witness Receiving Bribe	2
162.325 - Hindering Prosecution	1
<u>Homicide</u>	
163.115 - Murder	7
163.118 - Manslaughter I	6
163.125 - Manslaughter II	5
163.145 - Criminally Negligent Homicide	2
<u>Assault Related</u>	
163.175 - Assault II	4
163.185 - Assault I	6
163.205 - Criminal Mistreatment	2

supporting information in writing.

(2) If the parole officer disputes discharge pursuant to subsection (1), the Board will consider the matter, in the same manner as Rule 40-030. If it agrees, it will notify the supervising officer in writing of its decision and of the new tentative discharge date. The supervising officer will notify the parolee. If the Board does not agree, the certificate of discharge will be presented as provided.

(3) At any time after the expiration of one year on parole, when the supervising officer believes discharge should precede the date affixed to the order of parole, he may notify the Board at any time with written reasons and suggestions, and after consideration in the same manner as Rule 40-030, the Board will either forward the certificate of discharge or an explanation for denial of the request.

(4) In those discharge cases where the Board desires further information on which to base its decision, it may dispatch a designated representative to conduct a hearing in accordance with Rule 70-025 (1).

<u>OFFENSE</u>	<u>RATING</u>
<u>Kidnapping Related</u>	
163.225 - Kidnapping II	4
163.235 - Kidnapping I	6
163.257 - Custodial Interference I	2
<u>Coercion</u>	
163.275 - Coercion	2
<u>Sexual Offenses</u>	
163.355 - Rape III	2
163.365 - Rape II	4
163.375 - Rape I	6
163.385 - Sodomy III	2
163.395 - Sodomy II	4
163.405 - Sodomy I	6
163.425 - Sexual Abuse I	2
<u>Family Offenses</u>	
163.515 - Bigamy	1
163.525 - Incest	1
163.535 - Abandon Child	2
163.555 - Criminal Nonsupport	1
<u>Theft Related</u>	
164.055 - Theft I	2
164.065 - Theft: lost, mislaid	1
164.075 - Theft by Deception	1
164.095 - Theft by Receiving	2
164.125 - Theft of Services	1
164.135 - Unauthorized Use of Motor Vehicle	2
<u>Burglary</u>	
164.215 - Burglary II	2
164.225 - Burglary I	4
<u>Arson</u>	
164.315 - Arson II	2
164.325 - Arson I	5
164.365 - Criminal Mischief I	1

<u>OFFENSE</u>	<u>RATING</u>
<u>Robbery</u>	
164.395 - Robbery III	2
164.405 - Robbery II	4
164.415 - Robbery I	5
<u>Forgery Related</u>	
165.013 - Forgery I	2
165.022 - Forged Instrument I	1
165.032 - Forgery Device	1
165.055 - Fraudulent Use of a Credit Card	1
165.070 - Fraudulent Communication Device	1
<u>Business/Commercial</u>	
165.085 - Sports Bribery	2
165.090 - Sports Bribe Receiving	2
<u>Riot Related</u>	
166.005 - Treason	7
166.015 - Riot	2
<u>Firearms</u>	
166.270 - Ex-Convict in Possession	2
166.410 - Sale related	2
<u>Prostitution Related</u>	
167.012 - Promoting Prostitution	1
167.137 - Compelling Prostitution	3
<u>Gambling</u>	
167.127 - Promoting Gambling	1
167.137 - Possession of Gambling Records I	1
<u>Drugs Related</u>	
167.207(1) - Criminal Activity in Drugs	4
167.207(4) - Criminal Activity in Drugs	3
167.212 - Tampering with Drug Records	1
167.278 - Obtaining Drugs Unlawfully	1

(2) Exceptions:

(a) Any time a firearm is discharged or a person is seriously injured by whatever means during commission of a felony, the offender will be assigned a rating of not less than six.

(b) Multiple convictions will be classified according to the crime bearing the highest rating.

(c) Attempt (ORS 161.405), Solicitation (ORS 161.435), and Conspiracy (ORS 161.450), will be assigned a rating one category less than the criminal activity intended.

(d) Crimes not listed will be rated by comparison to crimes listed on the table.

30-032. Criminal History/Risk Assessment. The Board will use the following to make a criminal history/risk assessment and will assign a score from zero to 11:

<u>ITEM</u>	<u>SCORE</u>
(A) No prior felony or misdemeanor convictions as an adult or juvenile:	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0
(B) No prior commitments of 60 days or more as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0

<u>ITEM</u>	<u>SCORE</u>
(C) Age at first commitment of 60 days or more:	
26 or older:	2
19 through 25:	1
18 or younger:	0

(D) Never escaped, failed parole or probation:	2
One of the above items:	1
Two or more of the above items:	0

(E) Has no admitted or documented alcohol or drug abuse problem:	1
Otherwise:	0

(F) Verified employment or full-time school attendance during 6 months of the last 24 months in the community, or 5 years conviction-free in the community:	1
Check appropriate items, if:	
() Employment	
() School Attendance	
() Conviction-free Period	
Otherwise:	0

TOTAL HISTORY ASSESSMENT SCORE:	_____
	=====

30-033. Matrix. The Board will use the following matrix in selecting a customary time to be served:

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

	11-9	8-6	5-3	2-0
OFFENSE SEVERITY RATING:	(All ranges in months)			
Category 1 - - - - -	3-6	3-6	5-12 (5-9)*	12-22 (9-14)
Category 2 - - - - -	3-6	5-10 (5-9)	10-18 (9-14)	18-28 (14-18)
Category 3 - - - - -	5-10 (5-9)	10-16 (9-14)	16-24 (14-18)	24-42 (18-24)
Category 4 - - - - -	10-16 (9-14)	16-22 (14-18)	22-30 (18-24)	30-48 (24-36)
Category 5 - - - - -	16-22 (14-18)	22-28 (18-22)	28-36 (22-30)	36-72 (30-56)
Category 6 - - - - -	Range of crimes and circumstances vary too much to establish ranges.			
Category 7 - - - - -	Ten-year minimum.			

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

30-034. Parole Hearing Date Set. The Board will set a parole hearing date within the parameters of the matrix unless it finds aggravation or mitigation under Rule 30-035 or the sentence length is shorter than the matrix bracket. In the latter case the parole hearing date set will be considered within the guidelines if the parole hearing date is set within nine months of the statutory good time date.

30-035. Aggravation/Mitigation. The Board may depart from the parameters of the matrix upon written findings of aggravation or mitigation:

- (1) Matters of aggravation include, but are not limited to:
 - (a) production or use of any weapon during the criminal episode,
 - (b) degree of any physical injury to victim, police or other persons during the criminal episode,
 - (c) substantial property loss or damage during the criminal episode,
 - (d) more than one offense,
 - (e) offenses against particularly vulnerable victims, i.e., aged, handicapped, very young, etc.
 - (f) cruelty toward victim or victims,
 - (g) ability to make restitution and refusal to do so, and
 - (h) any threat or violence toward witnesses or other persons.

- (2) Matters of mitigation include, but are not limited to:
 - (a) involvement tending to reduce culpability,
 - (b) withdrawal insufficient to constitute a defense but indicative of lesser intent,
 - (c) performance of any probation terms, including payment of fines, costs and/or restitution,
 - (d) cooperation with criminal justice agencies in the resolution of other criminal activity,
 - (e) victim or victims provoked the crime to a significant degree,
 - (f) the amounts of money or property taken were deliberately small, and

- (g) defendant, though guilty, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law existed.

30-036. Judicial Recommendations. Notwithstanding this rule, the sentencing judge may make recommendations to the Chairman of the Board of Parole outside guideline ranges. Such recommendations and the supporting reasons shall be made a confidential part of the record and shall be considered at the preliminary hearing or whenever a parole hearing date is reset.

30-037. Recommendations From Interested Agencies. Recommendations from interested agencies shall be considered at the preliminary hearing and be made a part of the confidential record.

30-040. Parole Hearing Date Resets. (1) An established parole hearing date may be reset to an earlier time upon recommendation of institution superintendent or a Board member with the concurrence of a quorum of the Board.

(2) An established parole hearing date may be reset to a later date upon recommendation of an institution superintendent or a Board member with the concurrence of a quorum of the Board, but only after the inmate has had an opportunity to appear pursuant to Rule 30-005, et. seq. An inmate may waive his right to appear in writing or by voluntary absence from the institution.

(3) No established parole hearing date may be reset without a written statement of reasons.

30-045. Notice. (1) The inmate will be notified in writing of his preliminary hearing and its purpose within a reasonable time before the hearing is conducted.

(2) The inmate will be notified in writing, of his parole hearing date and reasons for the date set if it is outside the established matrix.

(3) The inmate will be given a written statement of reasons if his established parole hearing date is reset under Rule 30-040.

(4) The inmate will be given written notice of his right to administrative review of the decision under Rule 80-005 and 80-010.

REVIEWS

40-005. Reviews under 144.054, 144.221 and 144.228. In cases where the Board establishes a parole hearing date more than two years from the date of the current hearing, it shall also establish review dates every two years or less.

40-010. Purpose. The purpose of this review will be to determine whether modification of the parole hearing date is appropriate under Rule 30-040.

40-015. Interview. The interview may be conducted by one or more voting members of the Board.

40-020. Appearance. No person, other than an inmate, shall appear in the inmate's behalf. The inmate may waive the personal appearance.

40-025. Review by full Board. Whenever a member or panel makes a decision affecting a person sentenced under ORS 144.054, 144.221 or 144.228, the decision will be reviewed by the full membership of the Board.

40-030. Method. Reviews will be accomplished by the Board without the presence of the inmate

(1) by circulating the inmate's record and a copy of the member or panel's proposed action for individual members' comments and votes, or

(2) by consideration at a business meeting providing all members are present.

PAROLE HEARINGS

50-005. Parole Consideration Hearings. An inmate incarcerated in an institution of the Corrections Division will be given a hearing to determine whether parole release will be granted on the date set for a parole hearing by the Board under Rules 30-030 or 30-040.

50-010. Panel. Parole hearings will be conducted by panels of two voting members, except that county jail inmate's parole hearing will be conducted by one member.

50-015. Actions. The panel may order parole, set a new parole hearing date, deny parole, or continue the hearing for a reasonable period of time.

50-020. Decisions. Decisions must be reached in accordance with Rule 30-020.

50-025. Instate Parole Hearing Procedures. (1) Notice: At a reasonable time prior to a parole hearing, the inmate will be notified at his place of confinement of the scheduled parole hearing. The notification will include the date and place of hearing, and will advise the inmate that information may be provided to the Board in writing or by persons appearing before designated members of the Board.

(2) Appearance: No person, other than the inmate, will appear.

(3) Record: A record of any and all parole hearings will be kept by the Board for at least two years. The record will contain:

(a) documents considered by the Board at the hearing,

(b) 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.)

(4) Notice of Order: After deliberation, the Board may notify the inmate orally of its decision at the parole hearing. The Board will provide the inmate with written notice of the decision. The oral notification may and the written notification will advise the inmate of the reason(s) for the decision, his right to administrative review under these procedures, and to judicial review under ORS 144.335.

50-030. Out-of-state Parole Hearing Procedures. An inmate who is in the custody of the Corrections Division who is housed in an out-of-state facility will receive a parole hearing in conformance with Rule 50-025 except the hearing may be conducted by conference telephone call.

55-005. ORS 144.050 Parole Consideration Hearings. An inmate who is confined in a jail facility as defined in ORS 144.050 for a period of six months or longer will be given a hearing upon the inmate's written application, except that no inmate will be considered for parole until four months of the sentence have been served.

55-010. Panel. Parole hearings will be conducted by one voting member.

55-105. Actions. The member may order parole, set a new parole hearing date, or continue the hearing for a reasonable period of time.

55-020. Decision. The decision of the Board member is the decision of the Board.

55-025. Parole Hearing Procedure. The parole hearing will be conducted in conformance to Rule 50-025.

PAROLE RESCISSION

60-005. Procedure. The Board may rescind a parole after it has been granted but prior to release from custody by conducting a rehearing pursuant to Rules 50-025 and 50-030 upon the recommendation of the superintendent of an institution or a Board member and the concurrence of three voting members.

60-010. Suspension. The Chairman may suspend the release date of an inmate for a reasonable period of time pending a rescission hearing.

EFF

8-1-70

RULES OF
OREGON STATE BOARD OF PAROLE AND PROBATION

Effective August 1, 1970
(Adopted July 29, 1970)

1. The Oregon State Board of Parole and Probation, hereinafter called Board, shall hold regular and business meetings in accordance with a schedule to be determined by the Chairman. Two members shall constitute a quorum, without which official action cannot be taken.
2. The Board shall select one of its members as Chairman who shall hold office for a period of one year. The term of office of the Chairman shall commence July 1 of each year. The Chairman may be re-elected to serve one additional term upon vote of the Board. The election shall be held within 30 days preceding the expiration of the present term.
3. The Chairman shall appoint one of the members of the Board to act in the capacity of Chairman in his absence. The person so selected shall be designated Acting Chairman.
4. It is the intent of the Board that one of its special functions shall be to aid every paroled man to reestablish himself in life. With this in view, the Administrator of the Corrections Division shall keep comprehensive watch over the actions of paroled men, and especially lend them every assistance in his power, not only in securing employment and making progress, but also in protecting them against the persecution which is often imposed upon ex-convicts.
5. It is the policy of the Board that no prisoner be paroled unless satisfactory employment or proper care and supervision are assured. In this connection, the Administrator of the Corrections Division is authorized to take such steps as may appear proper to encourage interest on the part of employers and other responsible citizens in giving parolees opportunities of employment or care and supervision, and to make such arrangements as he can to secure the proper rehabilitation for inmates who are to be paroled.
6. In determining parole selection, the Board will evaluate the readiness of the inmate for release, including, but not limited to, personal history factors, offense committed, institutional adjustment, personality changes, and the attitude of the community.
7. The Board may record proceedings conducted by it either manually or by mechanical recording device. The recording of such proceedings shall be maintained and preserved for a reasonable period of time in the offices of the Oregon State Board of Parole and Probation in Salem, Oregon.
8. No person shall attend regular meetings of the Board except upon a prearranged invitation by the Board.
9. No person nor attorney interested in behalf of any inmate will be permitted to personally represent the inmate at his or her hearing before the Board, but any person or attorney interested on behalf of any inmate or patient over which the Board has parole authority may present to the Board any information or documents pertinent to the case. The Board shall review such information and may reserve the right to invite any person or attorney interested in a particular case to attend a subsequent business meeting.

RULES - 8.1.70

10. Every attorney who shall undertake professional employment in connection with a parole matter of official interest to the Board shall immediately, upon undertaking such employment, file with the Board a statement in writing disclosing said employment and further stating whether any fee has been or is to be paid and, if so, the amount thereof and by whom paid or to be paid.

11. Statements and accompanying papers cannot be withdrawn after they have been referred to the Board. Action will be withheld, however, by request of petitioner or any person in his behalf at any time before the case has been finally determined.

12. All paroles granted shall be subject to the following 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 State Board of Parole and Probation may at any time, in case of violation of any of the terms of this parole, cause me to be returned to the physical custody of the Corrections Division to serve the remainder of my sentence/s. Pending action by the Board, I understand that 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.

(3) Upon release, I shall proceed at once to my place of residence and report my arrival to the nearest office of Parole and Probation, Corrections Division, according to instructions provided 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 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.

RULES - 8.1.70

13. An inmate of any county jail of this state serving a sentence of six months to one year shall be eligible for parole consideration at such time as application is made by the inmate to the Board. An inmate of the Oregon State Penitentiary, the Oregon State Women's Correctional Center, or the Oregon State Correctional Institution normally shall be eligible for parole hearing consideration in accordance with the following schedule:

- (1) On a sentence of 12 through 13 months, a hearing not later than the third month.
- (2) On a sentence of 14 through 16 months, a hearing at the end of four months.
- (3) On a sentence of 17 through 19 months, a hearing at the end of five months.
- (4) On a sentence of 20 through ~~30~~⁶ months, a hearing at the end of six months.

On all sentences in excess of 30 months, the Board shall make a complete study of the case not later than the end of the sixth month and set the parole hearing date at a preliminary hearing with the inmate. Inmates convicted of murder in the first degree and sentenced to life imprisonment prior to November 3, 1964, will be eligible for parole hearing after they have served seven years. Inmates who have been convicted of murder in the first degree and sentenced to life imprisonment subsequent to November 3, 1964, will be eligible for a parole hearing after they have served ten years. Inmates serving life sentences for murder in the second degree will be eligible for parole hearing after they have served seven years.

14. The inmate or parolee shall be notified of actions taken by the Board regarding his or her case.

15. Physical and psychiatric reports are to be submitted to the Board on all "life" cases and the following major crimes: homicide in any degree, treason, rape where violence is an element of the crime, kidnaping, burglary when armed with a dangerous weapon, or assault with intent to kill while being armed with a dangerous weapon. Such reports are to be made prior to the inmate's parole hearing.

16. Psychiatric reports for the Board shall be provided by the Corrections Division and not by outside psychiatrists employed by private individuals.

17. A parole violator will be given a hearing by the Board following his or her return to the Oregon State Penitentiary, the Oregon State Women's Correctional Center, or the Oregon State Correctional Institution at which time the parole violator will appear. The Board will at that time discuss the violations charged, and either grant immediate reparole, deny reparole, or set a date for a further reparole hearing.

18. In the event of the transfer of a female inmate from the Oregon State Women's Correctional Center to an institution in another state under the provisions of ORS 421.210, or the transfer of a male inmate from the Oregon State Penitentiary under the provisions of ORS 421.211, the parole hearing will be conducted in the following manner: one or more Board members, designated by the Chairman, will interview the inmate at the place of confinement and will make a full report and recommendation to the other members.

RULES - 8.1.70

19. The Administrator and parole officers of the Corrections Division shall be empowered to arrest and retake parole violators, and hold them in any city or county jail in the State of Oregon pending an investigation or revocation of parole by the Board.

20. It shall be the policy of the Board to return parole violators from any state in which they may be found. However, where unusual circumstances are present, indicating the presence of rehabilitative factors, the Administrator of the Corrections Division is empowered to present the case to the Board with his recommendation that the revocation be set aside and the parole be reinstated.

21. Parole violators may be returned to the physical custody of the Corrections Division by parole officers or by such police or peace officers as the Administrator may appoint. All such agents shall carry formal evidence of appointment. They shall be instructed regarding the proper method to be followed when performing this duty.

22. It shall be the policy of the Board that one on parole shall not be discharged from parole prior to the expiration of the sentence pronounced by the court except under unusual circumstances. Applications for discharge may be considered upon recommendation of the Corrections Division.

PAROLE REVOCATION

70-005. Purpose. When the Board is informed and has reasonable grounds to believe that a parolee has violated the conditions of his parole, these procedures will be utilized to determine whether a violation of condition(s) has occurred and whether parole should be continued, revoked and reinstated, or revoked.

70-010. Suspension of Parole. Upon notice that a parolee has been arrested and detained pursuant to ORS 144.331, ORS 144.350, or upon his own motion, the chairman of the Board or his designee will initiate these procedures. Parole suspension may be ordered.

70-015. Notice. Within a reasonable time before a hearing which may result in the revocation of active parole status, the parolee shall be interviewed and receive a notice containing the following information:

(1) A concise written statement of the alleged violations and the evidence which forms the basis of the alleged violations.

(2) The parolee's right to a hearing and the time, place and purpose of the hearing.

(3) The names of the persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purpose of confrontation and cross-examination, unless it has been determined that there is good cause for not revealing names nor allowing confrontation.

(4) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk or harm if their identity were disclosed.

(5) The parolee's right to subpoena witnesses under ORS 144.347.

(6) The parolee's right to be represented by counsel, and, if indigent, to have counsel appointed at state expense if the Board or its designated representative determines, after request, that the request has merit in view of the total situation, and it is claimed that:

(a) the parolee has not committed the alleged violation of parole conditions; or

(b) even if the violation is a matter of public record or is uncontested, there are substantial and complex reasons which make revocation inappropriate; or

(c) the parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

70-020. Waiver. After notice as set out above, and full advice of rights and procedure, the parolee may waive his right to a formal parole violation hearing and elect to proceed informally at the initial interview:

(1) The parolee may or may not make a statement, written or, where possible, oral, in which he may admit, not contest, or deny the alleged violations, and may provide information supporting his retention of active parole status in any case.

(2) The record of such informal proceeding shall include supporting evidence, notice forms properly executed, and statements by parolee in whatever form given, and shall be transmitted to the Board or its designated representative for review and preparation of proposed findings, recommendations and reasons under Rule 70-030.

(3) Election to proceed informally includes waiver of right to representation at all phases through Board decision, and of the right to present witnesses and evidence not present during the interview.

70-025. Formal Hearings. Formal hearings may be conducted by a Board member or a designated representative.

(1) Evidence: At formal hearings, the following material may be received in evidence:

(a) oral testimony under oath,

(b) reports made in the course of official duty or professional practice including, but not limited to, reports of law enforcement officers, parole officers, social workers, doctors and attorneys,

(c) documents which the Board determines to be relevant, material and reliable,

(d) if the Board determines evidence to be relevant, material and reliable, it shall not be excluded on the grounds of hearsay or lack of opportunity for cross-examination,

(e) information adverse to the parolee may be received in evidence without disclosure of the identity of the source of the information to the parolee, if the Board or its representative determines there is good cause for nondisclosure. The basis of

the Board's or its representative's determination shall be made a part of the record and shall be sealed. This record shall only be available to the Board or a reviewing judicial body.

(2) Record of Hearing: A record shall be made of the formal hearing which shall include all evidence received and considered, and manual or mechanical recording of all oral testimony and presentations.

70-030. Findings, Recommendation, and Reasons for Recommendation.

(1) Proposed: After either an informal or a formal hearing, the parolee will be provided with proposed findings, recommendation, and reasons for the recommendation. Unless he waives this right, the parolee shall have 10 days from the date of mailing of the proposed findings, recommendation and reasons to file written exceptions and arguments with the Board. Proposed findings are not required if the hearing is conducted by a panel of the Board. If counsel has been requested and denied, the proposed findings, recommendations and reasons will reflect the grounds of the denial.

(2) Final: A majority of the Board may adopt the proposed findings, recommendation, and reasons, may modify them, or may adopt other findings, order, and reasons therefore. A copy of the final findings, order and reasons for order will be forwarded to the parolee with notice of his right to administrative review pursuant to Rule 80-005 and to judicial review under ORS 144.335.

70-035. Future Disposition Hearing. (1) Purpose: Within a reasonable time after return to Corrections Division confinement after parole is revoked the Board will schedule and conduct a hearing to establish

future disposition of the inmate. This hearing shall be conducted under the procedures of a parole hearing as provided in Rule 50-010, et seq.

(2) Good time forfeited at parole release: The Board will consider restoration of forfeited good time at the future disposition hearing.

70-040. Revocation Procedures Where Parolee Out of State. When an alleged parole violator has left the state without permission, or is in custody in a state to which he has not been paroled or is in federal custody, his parole may be revoked and his return may be ordered by the Chairman without any parole revocation proceedings. If returned to any Corrections Division institution in this state, he will be given a hearing under Rule 70-035.

70-045. Parolee Receiving New Conviction. (1) A parolee on active parole who is convicted of any felony, or its equivalent under Oregon laws, in any jurisdiction, may have active parole revoked by the Chairman without any proceeding other than proof of conviction being received by the Board of Parole and an Order revoking parole or other disposition being sent by certified mail to the parolee at his last known address and to the agency having present custody.

(2) If an inmate is returned to the custody of the Corrections Division under this rule, he will be given a hearing under Rule 70-035.

80-005. Method of Review. Administrative review may be requested by an inmate, his attorney or a Board member, when the basis for the review meets the criteria of the Board. The Chairman shall examine the request to ascertain whether or not it is meritorious, consistent with the Board's criteria and would have affected the decision. Should this examination satisfy the above requirements, the Chairman will remand the case to the panel which heard it if possible. The review panel will conduct a new hearing.

80-010. Criteria for Review. The basis for review must fall within one of the following criteria:

- (1) The written finding of the Board does not reflect the Board action;
- (2) Pertinent information was available at the time of the original hearing which, through no fault of the inmate, was not considered at the parole hearing;
- (3) The action of the Board is inconsistent with its policies or is contrary to law.

DISCHARGE

90-005. Discharge Generally. The following criteria and matrix will govern tentative discharge dates to be announced as a part of the hearing wherein parole is ordered and to be affixed to orders of parole.

(1) Criteria: During the term of active parole indicated in the matrix, the parolee must show evidence of satisfactory parole adjustment.

(2) Matrix:

- (a) Categories 1 & 2: H/R 11-0)
- Category 3: H/R 11-3) One-year active parole
- Category 4: H/R 11-6)
- (b) Category 3: H/R 2-0) Time incarcerated prior to
- Category 4: H/R 5-0) parole order will equal time
- Categories 5 & 6: H/R 11-0) on parole to tentative discharge

EXCEPTION: Where time served exceeds 10 years, discharge may occur after 10 years' active parole, or expiration, whichever is first. This does not preclude early termination under Rule 90-010(3) below.

90-010. Procedure. A minimum of 30 days prior to the tentative discharge date affixed to the order of parole, the Board will execute and forward to the supervising officer a certificate of discharge which will be presented to the parolee in person or by certified mail at last known address. Presentation will be made on date of discharge or the first prior business day, and proof of presentation will be returned directly to the Board unless the parole officer takes action under subsection (1).

(1) Whenever the supervising officer believes that such discharge is incompatible with Rule 90-005(1), he will notify the Board and provide

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

ITEM	Score
(A) No prior felony or misdemeanor convictions as an adult or juvenile:	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0
(B) No prior commitments of 60 days or more as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0
(C) Age at first commitment of 60 days or more:	
26 or older:	2
19 through 25:	1
18 or younger:	0
(D) Never escaped, failed parole or probation:	2
One of the above items:	1
Two or more of the above items:	0
(E) Has no admitted or documented alcohol or drug abuse problem:	1
Otherwise:	0
(F) Verified employment or full-time school attendance during 6 months of the last 24 months in the community, or 5 years conviction-free in the community:	1

ITEM

SCORE

Check the appropriate items, if:

- () Employment
- () School Attendance
- () Conviction-free Period

Otherwise:

0 _____

TOTAL HISTORY ASSESSMENT SCORE:

EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

	11-9	8-6	5-3	2-0
OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	4-8	4-8	5-12 (5-9) *	12-22 (9-14)
Category 2 - - - - -	4-8	5-10 (5-9)	10-18 (9-14)	18-28 (14-28)
Category 3 - - - - -	5-10 (5-9)	10-16 (9-14)	16-24 (14-18)	24-42 (18-24)
Category 4 - - - - -	10-16 (9-14)	16-22 (14-18)	22-30 (18-24)	30-48 (24-36)
Category 5 - - - - -	16-22 (14-18)	22-28 (18-22)	28-36 (22-30)	36-72 (30-56)
Category 6 - - - - -	24-48	36-60	48-84	60-144
** Category 7 - - - - -	10-14 yrs.	12-20 yrs.	18-26 yrs.	24-life yrs.

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

**The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT D

Aggravation/Mitigation - Rule 30-033

AGGRAVATION

MITIGATION

Production or use of any weapon during the criminal episode.	Withdrawal insufficient to constitute a defense but indicative of lesser intent; or peripheral involvement in the episode.
Substantial property loss or damage during the episode; or criminal exploitation of a position of trust.	Amounts of money or property taken, lost or damaged were deliberately small.
Particularly vulnerable victims i.e., aged, handicapped, very young; or degree of any physical injury to any person during the episode; or threat or violence toward witnesses or other persons.	Victim or victims provoked the crime to a significant degree.
Ability to pay fines, restitution or costs and failure to do so.	Effort to make restitution or reparation.
More than one offense.	Cooperation with criminal justice agencies in resolution of other criminal activity.

FILED

JAN 26 1977

NOIWA PAULUS
SECRETARY OF STATE

Agency: *Bank of Ind. St.*

Rule #: _____

Adopted: *288 3 (T)*

Effective: _____

Amended: *1-26-77*

Repeals: _____

Statutory Authority:

Subject:

*Repeals 254-10-005 thru
10-025, adopts 254-10-006
thru 90-010, names & provides
rules of the agency.*

EFF

5-25-77

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

CERTIFICATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Oregon State Board of Parole

(Agency)

Date of adoption, amendment or repeal:

May 24, 1977

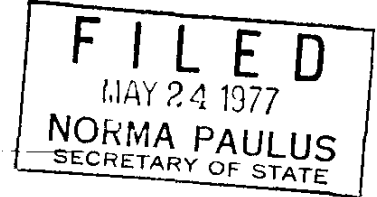
By:

Chas Blalock

(Authorized Signer)

Title:

Chairman



Effective Date: **May 25, 1977** Statutory Authority: **ORS 144.005 - 144.390**

Rule Number(s) **254 Oregon Administrative Rules, 10-005 through 10-025 repeated; 254 Oregon Administrative Rules, 10-006 through 90-010 adopted.**

- New Rule
- Amends
- Repeals
- Temporary
- Permanent

Subject matter and purpose of rule: **Governs rules and procedures of agency. Revises and expands the same due to expansion of agency membership and statutory changes.**

ORDER

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

(Agency)

publication of the intended action upon not less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

- Perm.
- Temp.

Adopted: **254 O.A.R. 10-006 through 90-010**

Amended: _____

Repealed: **254 O.A.R. 10-005 through 10-025**

as Administrative Rules of the **Oregon State Board of Parole**

DATED this **24th** day of **May**, 19**77**

(Agency)

By:

Chas Blalock

(Authorized Signer)

Title:

Chairman

OFFICE OF THE LEGISLATIVE COUNSEL
203 Public Service Building
Salem, Oregon 97310

To:

Date: 5/24/77

From: Thomas G. Clifford
Legislative Counsel

A draft of the proposed rule described below was submitted to the Legislative Counsel Committee and the Legislative Counsel and received in the Office of the Legislative Counsel pursuant to ORS 171.707 on the date and at the time indicated.

Agency: Board of Parole

Rule: CAR 254 - 10-005 through 10-025;
10-006 - through 90-010

Date Received: 5/24/77

Time Received: 2:00 PM

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BOARD OF PAROLE
(ORS Chapter 144)

ORGANIZATION

10-006. Membership. The State Board of Parole shall consist of six persons: Five voting members are appointed by the Governor. The Administrator of the Corrections Division who shall have no vote acts as advisor and liaison.

10-011. Chairman. The chairman shall be a voting member of the Board selected by a majority vote. The chairman will have a minimum term of one year and may be removed prior to the end of his term by a unanimous vote of the voting Board members.

10-016. Chairman: Powers and Duties. The chairman shall have the powers and duties established by law and rules necessary for the performance of the office and administration of the Board including,

- (1) assign voting Board members to panels and appoint panel chairmen,
- (2) apportion matters to the panels and full Board for decision,
- (3) reassign matters to different panels when required by law or procedure,
- (4) schedule business meetings and develop the agenda,
- (5) inform the sentencing judge, district attorney,

sheriff or arresting agency of the prospective
release of each offender and the conditions thereof,

- (6) review administrative appeals,
- (7) designate members to conduct hearings and reviews,
- (8) appoint assistants for offenders when appropriate.

BUSINESS MEETINGS

20-005. Scheduling. Business meetings will be held as scheduled by the chairman or upon the request of at least two members.

20-010. Quorum. A business meeting requires three of the voting members of the Board.

20-015. Actions. The business meeting will consider matters relating to Board policy and administration raised by the agenda presented by the chairman or by Board members.

20-020. Decision. Three votes are required to make a Board decision at a business meeting.

PRELIMINARY HEARINGS

30-005. Scheduling. Every offender initially incarcerated at any institution of the Corrections Division will be scheduled for a preliminary hearing within six months of admission.

30-010. Panel Size. A preliminary hearing panel will consist of two or more voting members of the Board.

30-015. Actions. The panel may set a parole hearing date or deny parole. Prior to making a decision the panel may continue the hearing for a reasonable period of time if necessary.

30-020. Decisions. The decision of a panel of two or three members must be unanimous. In the absence of a unanimous decision, each panel member will forward his recommendation to the Board and the matter will be referred to the chairman for reassignment. No matter so reassigned shall be decided by fewer than three affirmative votes. This may be done by another two-member panel reaching a unanimous decision in agreement with a member of the prior panel. The decision becomes the decision of the Board unless subject to full Board review pursuant to rule 41-005.

30-025. Appearance. No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers or lack of mental capacity. Assistance will be provided to

offenders meeting this criteria by persons recommended by the institution superintendent and appointed by the chairman of the Board.

30-030. Offense Severity. (1) The Board will use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, will assign a severity rating from one to seven as set forth in Exhibit A.

(2) Exceptions:

(a) Any time a firearm is discharged or a person is seriously injured by whatever means during commission of a felony, the offender will be assigned a rating of not less than six.

(b) Multiple convictions will be classified according to the crime bearing the highest rating.

(c) Attempt (ORS 161.405), Solicitation (ORS 161.435), and Conspiracy (ORS 161.450), will be assigned a rating one category less than the criminal activity intended.

(d) Crimes not listed will be rated by comparison to crimes listed on the table.

30-031. Criminal History/Risk Assessment. The Board will use the table in Exhibit B to make a criminal history/risk assessment and will assign a score from zero to 11 as set forth in Exhibit B.

30-032. Parole Hearing Date Set. The Board will set a parole hearing date within the parameters of the matrix in Exhibit C

unless it finds aggravation or mitigation under Rule 30-033 or the sentence length is shorter than the matrix bracket. In the latter case the parole hearing date set will be considered within the guidelines if the parole hearing date is set within nine months of the statutory good time date.

30-033. Aggravation/Mitigation. The Board may depart from the parameters of the matrix only upon written findings of aggravation or mitigation. Such findings will be based on objective information satisfactory to the Board and understood by the offender which leads to reasonable conclusions. Usual but not exclusive factors in aggravation/mitigation are shown in Exhibit D.

30-034. Judicial Recommendations. The sentencing judge may make recommendations outside guideline ranges. Such recommendations and the supporting reasons shall be sent to the chairman, made a confidential part of the record, and considered at the preliminary hearing.

30-035. Other Recommendations. Recommendations from police, District Attorneys, defense attorneys and other interested persons and agencies shall be considered at the preliminary hearing and be made a part of the confidential record.

30-040. Notice. (1) The offender will be notified in writing of his preliminary hearing and its purpose within a reasonable time before the hearing is conducted.

(2) The offender will be notified in writing, of his parole hearing date and reasons for the date set if it is outside the established matrix.

(3) The offender will be notified in writing if his established parole hearing date is scheduled for reconsideration pursuant to rule 30-050.

(4) The offender will be given a written statement of reasons if his established parole hearing date is reset under Rule 30-050.

(5) The offender will be given written notice of his right to administrative appeal of the decision under Rule 80-005 and 80-010.

30-045. Record. A record of the preliminary hearing and any and all hearings pursuant to rule 30-050 will be kept by the Board for at least two years. The record will contain:

- (1) documents considered by the Board at the hearing,
- (2) 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.)

30-050. Parole Hearing Date Resets. (1) An established parole hearing date may be reset to an earlier time upon recommendation of institution superintendent or a Board

member, and after the concurrence of a voting majority of the Board.

(2) An established parole hearing date may be reset to a later date upon recommendation of an institution superintendent or a Board member, and after the concurrence of a quorum of the Board, but only after the offender has had an opportunity to appear pursuant to Rule 30-005, et. seq. An offender may waive his right to appear in writing or by voluntary absence from the institution.

(3) No established parole hearing date may be reset without a written statement of reasons.

REVIEWS

40-005. Statutory Reviews. In cases where the Board establishes a parole hearing date more than two years from the date of the current hearing, it shall also establish review dates every two years or less.

40-010. Purpose. The purpose of this review will be to determine whether modification of the parole hearing date is appropriate under Rule 30-050.

40-015. Interview. An interview will be conducted by one or more voting members of the Board. In the event an interviewer determines that modification of the parole hearing date is appropriate the matter will be referred to the full Board for review. No action shall be taken in all other cases.

40-020. Appearance. No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers or lack of mental capacity. Assistance will be provided to offenders meeting these criteria by persons recommended by the institution superintendent and appointed by the chairman of the Board. The offender may waive the personal appearance in writing or by voluntary absence from the institution.

41-005. Full Board Review. (1) Whenever a panel makes a decision affecting an offender sentenced to life imprisonment,

convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the offender with causing the death of the victim, and/or sentenced under ORS 161.725 and 161.735 as a dangerous offender, the decision will be reviewed by the full membership of the Board.

(2) Whenever a single member makes a recommendation affecting an offender, the recommendation will be reviewed by the full Board and decided by a majority vote of the Board.

41-010. Method. (1) Full Board reviews will be accomplished by the Board without the presence of the offender,

(a) by circulating the offender's record and a copy of the member or panel's proposed action for individual members' comments and votes, or

(b) by consideration at a business meeting providing all voting members are present.

(2) Notwithstanding subsection (1), a preliminary hearing or a parole hearing conducted by all five voting members of the Board will satisfy the requirements of this section.

42.005. Reviews of Parole Hearing Dates in excess of 12 years.

In addition to the foregoing review procedures, an offender who is (1) convicted of a crime involving the death of the victim, whether or not the prosecution directly charged the person with causing the death of the victim, (2) sentenced to life imprisonment, and/or (3) sentenced under ORS 161.725 and

161.735 as a dangerous offender, and who has a parole hearing date in excess of twelve years from his preliminary hearing date, may request and will be granted a full Board hearing at his next biennial review if he has served one-third and two-thirds, respectively, of the period of incarceration set by the Board at the preliminary hearing to determine whether modification of the parole hearing date is appropriate under Rule 30-050. Rules 40-015 and 41-005 are suspended for the purpose of this type review.

PAROLE HEARINGS

50-005. Parole Consideration Hearings. An offender committed to the custody of the Corrections Division and incarcerated will be given a hearing to determine whether parole release will be granted on the date set for a parole hearing by the Board under Rules 30-032 or 30-050.

50-010. Panel. Parole hearings will be conducted by panels of two or more voting members.

50-015. Actions. The panel may order parole, set a new parole hearing date, deny parole, or continue the hearing for a reasonable period of time.

50-020. Decisions. Decisions must be reached in accordance with Rule 30-020.

50-025. Instate Parole Hearing Procedures. (1) Notice: At a reasonable time prior to a parole hearing, the offender will be notified at his place of confinement of the scheduled parole hearing. The notification will include the date and place of hearing, and will advise the offender that information may be provided to the Board in writing or by persons sending written information to the Board.

(2) Appearance: No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers

or lack of mental capacity. Assistance will be provided to offenders meeting this criteria by persons recommended by the superintendent and appointed by the chairman of the Board.

(3) Record: A record of any and all parole hearings will be kept by the Board for at least two years. The record will contain:

- (a) documents considered by the Board at the hearing,
- (b) 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.)

(4) Notice of Order: After deliberation, the Board may notify the offender orally of its decision at the parole hearing. The Board will provide the offender with written notice of the decision within a reasonable time. The oral notification may and the written notification will advise the offender of the reason(s) for the decision, his right to administrative appeal under rule 80-005 and to judicial review under ORS 144.335.

51-005. Out-of-state Parole Hearing Procedures. An offender who is in the custody of the Corrections Division who is housed in an out-of-state facility will receive a parole hearing in conformance with Rule 50-025. However, the hearing may be

conducted by conference telephone call.

55-005. ORS 144.050 Parole Consideration Hearings. An offender confined in a jail facility as defined in ORS 144.050 for a period of six months or longer will be given a hearing upon the offender's written application, except that no such person will be considered for parole until four months of the sentence have been served.

55-010. Panel. Parole hearings will be conducted by one voting member.

55-015. Actions. The member may order parole, set a new parole hearing date, or continue the hearing for a reasonable period of time.

55-020. Decision. The decision of the Board member is the decision of the Board.

55-025. Parole Hearing Procedure. The parole hearing will be conducted in conformance to Rule 50-025 except that any assistant provided to the offender will be recommended by the chief custodian of the jail facility and appointed by the chairman of the Board.

PAROLE RESCISSION

60-005. Procedure. The Board may rescind a parole after it has been ordered but prior to release from custody by conducting a rehearing consistent with rules 50-025 or 51-005, upon recommendation of an institution superintendent, Chief of Field Services, or a Board member, and with the concurrence of three voting members. All parties will be given written reasons for the action taken.

60-010. Suspension. The Chairman may on his own motion suspend the release date of an offender. Suspension will be for such time as is reasonably necessary to conduct the rescission hearing and make a decision.

60-015. Parole order voided. An offender who voluntarily absents himself and is not available for a rescission hearing will have his parole order voided by the Chairman. The offender will be scheduled for a rescission hearing when available at the parent institution.

60-020. Basis for rescission. At the hearing the Board will take relevant, material and reliable information of offender misconduct which causes the hearing to be held. A decision to rescind will indicate the misconduct and set a new parole hearing date.

PAROLE REVOCATION

70-005. Purpose. When the Board is informed and has reasonable grounds to believe that a parolee has violated the conditions of his parole, these procedures will be utilized to determine whether a violation of condition(s) has occurred and whether parole should be continued, revoked and reinstated, or revoked.

70-010. Suspension of Parole. Upon notice that a parolee has been arrested and detained pursuant to ORS 144.350, or upon his own motion, the chairman of the Board or his designee will initiate these procedures. Parole suspension may be ordered pursuant to ORS 144.331.

70-015. Notice. Within a reasonable time before a hearing which may result in the revocation of active parole status, the parolee shall be interviewed and receive a notice containing the following information:

(1) A concise written statement of the alleged violations and the evidence which forms the basis of the alleged violations.

(2) The parolee's right to a hearing and the time, place and purpose of the hearing.

(3) The names of the persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purpose of confrontation and cross-examination,

unless it has been determined that there is good cause for not revealing names nor allowing confrontation.

(4) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk or harm if their identity were disclosed.

(5) The parolee's right to subpoena under ORS 144.347, unless limited by (3) or (4) above,

(6) The parolee's right to be represented by counsel, and, if indigent, to have counsel appointed at state expense if the Board or its designated representative determines, after request, that the request has merit in view of the total situation, and it is claimed that:

(a) the parolee has not committed the alleged violation of parole conditions; or

(b) even if the violation is a matter of public record or is uncontested, there are substantial and complex reasons which make revocation inappropriate; or

(c) the parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

70-020. Waiver. After notice as set out above, and full advice of rights and procedure, the parolee may waive his right to a formal parole violation hearing and elect to proceed informally at the initial interview:

(1) The parolee may or may not make a statement, written

or, where possible, oral, in which he may admit, not contest, or deny the alleged violations, and may provide information supporting his retention of active parole status in any case.

(2) The record of such informal proceeding shall include supporting evidence, notice forms properly executed, and statements by parolee in whatever form given, and shall be transmitted to the Board or its designated representative for review and preparation of proposed findings, recommendations and reasons under Rule 70-030.

(3) Election to proceed informally includes waiver of right to representation at all phases through Board decision, and of the right to present witnesses and evidence not present during the interview.

70-025. Formal Hearings. Formal hearings may be conducted by a Board member or a designated representative.

(1) Evidence: At formal hearings, the following material may be received in evidence:

- (a) oral testimony under oath,
- (b) reports made in the course of official duty or professional practice including, but not limited to, reports of law enforcement officers, parole officers, social workers, doctors and attorneys,
- (c) documents which the Board determines to be relevant, material and reliable,
- (d) if the Board determines evidence to be relevant,

material and reliable, it shall not be excluded on the grounds of hearsay or lack of opportunity for cross-examination,

(e) information adverse to the parolee may be received in evidence without disclosure of the identity of the source of the information to the parolee, if the Board or its representative determines there is good cause for nondisclosure. The basis of the Board's or its representative's determination shall be made a part of the record and shall be sealed. This record shall only be available to the Board or a reviewing judicial body.

(2) Record of Hearing: A record shall be made of the formal hearing which shall include all evidence received and considered, and manual or mechanical recording of all oral testimony and presentations.

70-030. Findings, Recommendation, and Reasons for Recommendation.

(1) Proposed: After either an informal or a formal hearing, the parolee will be provided with proposed findings, recommendation, and reasons for the recommendation. Unless he waives this right, the parolee shall have 10 days from the date of mailing of the proposed findings, recommendation and reasons to file written exceptions and arguments with the Board. Proposed findings are not required if the hearing is conducted by a panel of the Board. If counsel has been requested and denied, the proposed findings, recommendations and reasons will reflect the grounds of the denial.

(2) Final: A majority of the Board may adopt the proposed findings, recommendation, and reasons, may modify them, or may adopt other findings, order, and reasons therefore. A copy of the final findings, order and reasons for order will be forwarded to the parolee with notice of his right to administrative review pursuant to Rule 80-005 and to judicial review under ORS 144.335.

70-035. Revocation Procedures Where Parolee Out of State.

When a parolee has left the state without permission, or is in custody in a state to which he has not been paroled or is in federal custody, his parole may be revoked and his return may be ordered by the Board without any parole revocation proceedings. If returned to any Corrections Division institution in this state, he will be given a hearing under Rule 75-005.

70-040. Parolee Receiving New Conviction. (1) A parolee who is convicted of any felony, or its equivalent under Oregon laws, in any jurisdiction, may have parole revoked by the Board without any proceeding other than receipt of proof of conviction. An order revoking parole or other disposition will be sent by certified mail to the parolee at his last known address and to the agency having present custody.

(2) If an offender is returned to the custody of the Corrections Division he will be given a hearing under Rule 75-005.

75-005. Future Disposition Hearing. (1) Purpose: Within a reasonable time after return to Corrections Division confinement after parole is revoked the Board will schedule and conduct a hearing to establish future disposition of the offender. This hearing shall be conducted under the procedures of a parole hearing as provided in Rule 50-015.

(2) Good Time after Revocation: Decisions regarding restoration of institution good time, statutory and meritorious, earned but forfeited upon parole will be made as follows:

(a) Good Time may be restored where the inmate was returned with a new consecutive sentence, or where the Board denies further parole consideration regardless of reason for return.

(b) The future disposition hearing will be scheduled early in those cases where the institution is deferring program decisions until after the issue of restoration is decided. In such cases, the superintendent's request for an early future disposition hearing and good time recommendation will initiate an accelerated hearing date.

ADMINISTRATIVE APPEAL

80-005. Method of Appeal. Administrative appeal may be requested by an offender or a Board member, when the basis for the appeal meets the criteria of the Board. The Chairman shall examine the request to ascertain whether or not it is meritorious, consistent with the Board's criteria and would have affected the decision. Should this examination satisfy the above requirements, the Chairman will remand the case to the panel which heard it if possible. The appeal panel will conduct a new hearing. If the requirements are not met, the Chairman will inform the offender in writing that the prior decision remains in effect.

80-010. Criteria for Appeal. The basis for appeal must fall within one of the following criteria:

- (1) The written finding of the Board does not reflect the Board action;
- (2) Pertinent information was available at the time of the original hearing which, through no fault of the offender, was not considered at the parole hearing;
- (3) The action of the Board is inconsistent with its policies or is contrary to law.

DISCHARGE

90-005. Discharge Generally. The following criteria and matrix will govern tentative discharge dates to be announced as a part of the hearing wherein parole is ordered and will be affixed to orders of parole.

(1) Criteria: During the term of active parole indicated in the matrix, the parolee must show evidence of satisfactory parole adjustment.

(2) Matrix:

- | | | | |
|-----|----------------------------|---|----------------------------------|
| (a) | Categories 1 & 2: H/R 11-0 |) | |
| | Category 3: H/R 11-3 |) | One-year active parole |
| | Category 4: H/R 11-6 |) | |
| (b) | Category 3: H/R 2-0 |) | Time incarcerated prior to |
| | Category 4: H/R 5-0 |) | parole order will equal time |
| | Category 5 & 6: H/R 11-0 |) | on parole to tentative discharge |

EXCEPTION: Where time served exceeds 10 years, discharge may occur after 10 years' active parole, or expiration, whichever is first. This does not preclude early termination under Rule 90-010(3) below.

90-010. Procedure. A minimum of 30 days prior to the tentative discharge date affixed to the order of parole, the supervising officer will prepare and send to the Board a Supervisory Report. This report will recommend one of two courses:

(1) That the Discharge Certificate be forwarded to the supervising officer for presentation to the parolee on the tentative discharge date or the first prior business day. The supervising officer will thereafter receive the Certificate, will make presentation in person or by certified mail at

confirmed address, and will return proof of presentation directly to the Board provided that no facts are discovered between the submission of the supervising officer's report and the discharge date which indicate discharge should not occur; or

(2) That the discharge not be granted on the tentative date. The Report will contain information showing that discharge is presently incompatible with Rule 90-005(1), will suggest a new discharge date, and will explain why such extension is best for the parolee and society. The Board will consider the recommendation in the same manner as Rule 41-010 (1), and will notify the supervising officer in writing of its decision and reasons therefore. The supervising officer will then either receive, present and return proof as in (1) above, or will notify the parolee of the new discharge date and reasons.

(3) Notwithstanding (1) and (2), in any case after expiration of one year active parole when the supervising officer believes discharge should precede the date affixed to the order of parole, he may notify the Board with written reasons and recommendation. After consideration as in Rule 41-010(1) the Board will either forward a Discharge Certificate or a written explanation for denial of the request.

(4) In those discharge cases where the Board desires further information on which to base its decision, it may dispatch a designated representative or Board member to conduct a hearing in accordance with Rule 70-025(1).

EXHIBIT A

Offense Severity Under Rule 30-030

<u>OFFENSE</u>	<u>RATING</u>
<u>Bribery</u>	
162.015 - Bribe Giving	3
162.025 - Bribe Receiving	3
<u>Perjury</u>	
162.065 - Perjury	2
<u>Escape Related</u>	
162.155 - Escape II	2
162.165 - Escape I	4
162.185 - Supplying Contraband	1
162.205 - Failure to Appear I	2
<u>Obstructing Governmental Administration</u>	
162.265 - Bribing a Witness	2
162.275 - Witness Receiving Bribe	2
162.325 - Hindering Prosecution	1
<u>Homicide</u>	
163.115 - Murder	7
163.118 - Manslaughter I	6
163.125 - Manslaughter II	5
163.145 - Criminally Negligent Homicide	2
<u>Assault Related</u>	
163.175 - Assault II	4
163.185 - Assault I	5
163.205 - Criminal Mistreatment	2
<u>Kidnapping Related</u>	
163.225 - Kidnapping II	4
163.235 - Kidnapping I	6
163.257 - Custodial Interference I	2

<u>OFFENSE</u>	<u>RATING</u>
<u>Coercion</u>	
163.275 - Coercion	2
<u>Sexual Offenses</u>	
163.355 - Rape III	2
163.365 - Rape II	4
163.375 - Rape I	6
163.385 - Sodomy III	2
163.395 - Sodomy II	4
163.405 - Sodomy I	6
163.425 - Sexual Abuse I	2
<u>Family Offenses</u>	
163.515 - Bigamy	1
163.525 - Incest	1
163.535 - Abandon Child	2
163.555 - Criminal Nonsupport	1
<u>Theft Related</u>	
164.055 - Theft I	2
164.065 - Theft: lost, mislaid	1
164.075 - Theft by Deception	1
164.095 - Theft by Receiving	2
164.125 - Theft of Services	1
164.135 - Unauthorized Use of Motor Vehicle	2
<u>Burglary</u>	
164.215 - Burglary II	2
164.225 - Burglary I	4
<u>Arson</u>	
164.315 - Arson II	2
164.325 - Arson I	5
164.365 - Criminal Mischief I	1
<u>Robbery</u>	
164.395 - Robbery III	2
164.405 - Robbery II	4
164.415 - Robbery I	5

<u>OFFENSE</u>	<u>RATING</u>
<u>Forgery Related</u>	
165.013 - Forgery I	2
165.022 - Forged Instrument I	1
165.032 - Forgery Device	1
165.055 - Fraudulent Use of a Credit Card	1
165.070 - Fraudulent Communication Device	1
<u>Business/Commercial</u>	
165.085 - Sports Bribery	2
165.090 - Sports Bribe Receiving	2
<u>Riot Related</u>	
166.005 - Treason	7
166.015 - Riot	2
<u>Firearms</u>	
166.270 - Ex-Convict in Possession	2
166.410 - Sale related	2
<u>Prostitution Related</u>	
167.012 - Promoting Prostitution	1
167.137 - Compelling Prostitution	3
<u>Gambling</u>	
167.127 - Promoting Gambling	1
167.137 - Possession of Gambling Records I	1
<u>Drugs Related</u>	
167.207(1) - Criminal Activity in Drugs	3
167.207(4) - Criminal Activity in Drugs	4
167.212 - Tampering with Drug Records	1
167.278 - Obtaining Drugs Unlawfully	1

Filed:	FILED	Agency:	<i>Frank Hill</i>
	MAY 24 1977		
	NORMA PAULUS	No. #:	<i>5-223-77</i>
	SECRETARY OF STATE	Dist. #:	<i>5-223-77</i>
Rec. #:			
Statute/ Authority:			
Subject:			

*Expend 254.10.005 thru 254.10.02
 Adaptive 254.10.006 thru 254.10.02
 Review and expend the rule &
 provisions of the program.*

S.O.S.

715-77
Printing

OREGON ADMINISTRATIVE RULES

BOARD OF PAROLE

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254-10-005 [Filed and Eff. 11-1-73
as 2PB 1(Temp)
Filed 2-5-74 as 2PB 2,
Eff. 2-25-74
Repealed by 2PB 3(Temp),
Filed and Eff. 1-26-77
Repealed 5-24-77 by 2PB 4,
Eff. 5-25-77]

Membership

254-10-006 The State board of Parole shall consist of six persons: Five voting members are appointed by the Governor. The Administrator of the Corrections Division who shall have no vote acts as advisor and liaison.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

254-10-010 [Filed and Eff. 11-1-73
as 2PB 1(Temp)
Filed 2-5-74 as 2PB 2,
Eff. 2-25-74
Repealed by 2PB 3(Temp),
Filed and Eff. 1-26-77
Repealed 5-24-77 by 2PB 4,
Eff. 5-25-77]

Chairman

254-10-011 The chairman shall be a voting member of the Board selected by a majority vote. The chairman will have a minimum term of one year and may be removed prior to the end of his term by a unanimous vote of the voting Board members.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

254-10-015 [Filed and Eff. 11-1-73
as 2PB 1(Temp)
Filed 2-5-74 as 2PB 2,
Eff. 2-25-74
Repealed by 2PB 3(Temp),
Filed and Eff. 1-26-77
Repealed 5-24-77 by 2PB 4,
Eff. 5-25-77]

Chairman: Powers and Duties

254-10-016 The chairman shall have the powers and duties established by law and rules necessary for the performance of the office and administration of the Board including:

- (1) assign voting Board members to panels and appoint panel chairmen,
- (2) apportion matters to the panels and full Board for decision,
- (3) reassign matters to different panels when required by law or procedure,
- (4) schedule business meetings and develop the agenda,
- (5) inform the sentencing judge, district attorney, sheriff or arresting agency of the prospective release of each offender and the conditions thereof,
- (6) review administrative appeals,
- (7) designate members to conduct hearings and reviews,
- (8) appoint assistants for offenders when appropriate.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

254-10-020 [Filed and Eff. 11-1-73
as 2PB 1(Temp)
Filed 2-5-74 as 2PB 2,
Eff. 2-25-74
Repealed by 2PB 3(Temp),
Filed and Eff. 1-26-77
Repealed 5-24-77 by 2PB 4,
Eff. 5-25-77]

254-10-025 [Filed and Eff. 11-1-73
as 2PB 1(Temp)
Filed 2-5-74 as 2PB 2,
Eff. 2-25-74

Repealed by 2PB 3(Temp),
Filed and Eff. 1-26-77

Repealed 5-24-77 by 2PB 4,
Eff. 5-25-77]

DIVISION 20

BUSINESS MEETINGS

Scheduling

254-20-005 Business meetings will be held as scheduled by the chairman or upon the request of at least two members.

Statutory Authority: ORS Chapter 144
 Hist: filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Quorum

254-20-010 A business meeting requires three of the voting members of the Board.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Actions

254-20-015 The business meeting will consider matters relating to Board policy and administration raised by the agenda presented by the chairman or by Board members.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Decision

254-20-020 Three votes are required to make a Board decision at a business meeting.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

DIVISION 30

PRELIMINARY HEARINGS

Scheduling

254-30-005 Every offender initially incarcerated at any institution of the Corrections Division will be scheduled for a preliminary hearing within six months of admission.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Panel Size

254-30-010 A preliminary hearing panel will consist of two or more voting members of the Board.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Actions

254-30-015 The panel may set a parole hearing date or deny parole. Prior to making a decision, the panel may continue the hearing for a reasonable period of time if necessary.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Decisions

254-30-020 The decision of a panel of two or three members must be unanimous. In the absence of a unanimous decision, each panel member will forward his recommendation to the Board, and the matter will be referred to the chairman for reassignment. No matter so reassigned shall be decided by fewer than three affirmative votes. This may be

done by another two-member panel reaching a unanimous decision in agreement with a member of the prior panel. The decision becomes the decision of the Board unless subject to full Board review pursuant to rule 254-40-025.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Appearance

254-30-025 No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers or lack of mental capacity. Assistance will be provided to offenders meeting this criteria by persons recommended by the institution superintendent and appointed by the chairman of the Board.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Offense Severity

254-30-030 (1) The Board will use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, will assign a severity rating from one to seven as set forth in Exhibit A.

(2) Exceptions:

(a) Any time a firearm is discharged or a person is seriously injured by whatever means during commission of a felony, the offender will be assigned a rating of not less than six.

(b) Multiple convictions will be classified according to the crime bearing the highest rating.

(c) Attempt (ORS 161.405), Solicitation (ORS 161.435), and Conspiracy (ORS 161.450), will be assigned a rating one category less than the criminal activity intended.

(d) Crimes not listed will be rated by comparison to crimes listed on the table.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Criminal History/Risk Assessment

254-30-031 The Board will use the table in Exhibit B to make a criminal history/risk assessment and will assign a score from zero to 11 as set forth in Exhibit E.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Parole Hearing Date Set

254-30-032 The Board will set a parole hearing date within the parameters of the matrix in Exhibit C unless it finds aggravation or mitigation under rule 254-30-033, or the sentence length is shorter than the matrix bracket. In the latter case, the parole hearing date set will be considered within the guidelines if the parole hearing date is set within nine months of the statutory good time date.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Aggravation/Mitigation

254-30-033 The Board may depart from the parameters of the matrix only upon written findings of aggravation or mitigation. Such findings will be based on objective information satisfactory to the Board and understood by the offender which leads to reasonable conclusions. Usual but not exclusive factors in aggravation/mitigation are shown in Exhibit D.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Judicial Recommendations

254-30-034 The sentencing judge may make recommendations outside guideline ranges. Such recommendations and the supporting reasons shall be sent to the chairman, made a confidential part of the record, and considered at the preliminary hearing.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Other Recommendations

254-30-035 Recommendations from police, District Attorneys, defense attorneys, and other interested persons and agencies shall be considered at the preliminary hearing and be made a part of the confidential record.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Notice

254-30-040 (1) The offender will be notified in writing of his preliminary hearing and its purpose within a reasonable time before the hearing is conducted.

(2) The offender will be notified in writing, of his parole hearing date and reasons for the date set if it is outside the established matrix.

(3) The offender will be notified in writing if his established parole hearing date is scheduled for reconsideration pursuant to rule 254-30-050.

(4) The offender will be given a written statement of reasons if his established parole hearing date is reset under rule 254-30-050.

(5) The offender will be given written notice of his right to administrative appeal of the decision under rules 254-80-005 and 254-80-010.

Statutory Authority: ORS Chapter 144

Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Record

254-30-045 A record of the preliminary hearing and any and all hearings pursuant to rule 254-30-050 will be kept by the board for at least two years. The record will contain:

(1) documents considered by the Board at the hearing,

(2) 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.)

Statutory Authority: ORS Chapter 144
 Hist: Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Parole Hearing Date Resets

254-30-050 (1) An established parole hearing date may be reset to an earlier time upon recommendation of institution superintendent or a Board member, and after the concurrence of a voting majority of the Board.

(2) An established parole hearing date may be reset to a later date upon recommendation of an institution superintendent or a Board member, and after the concurrence of a quorum of the Board, but only after the offender has had an opportunity to appear pursuant to rule 254-30-005, et. seq. An offender may waive his right to appear in writing or by voluntary absence from the institution.

(3) No established parole hearing date may be reset without a written statement of reasons.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

DIVISION 40

REVIEWS

Statutory reviews

254-40-005 In cases where the Board establishes a parole hearing date more than two years from the date of the current hearing, it shall also establish review dates every two years or less.

Statutory Authority: ORS Chapter 144
 Hist: filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Purpose

254-40-010 The purpose of this review will be to determine whether modification of the parole hearing date is appropriate under rule 254-30-050.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Interview

254-40-015 An interview will be conducted by one or more voting members of the Board. In the event an interviewer determines that modification of the parole hearing date is appropriate, the matter will be referred to the full Board for review. No action shall be taken in all other cases.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Appearance

254-40-020 No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers or lack of mental capacity. Assist-
 7-15-77

ance will be provided to offenders meeting these criteria by persons recommended by the institution superintendent and appointed by the chairman of the Board. The offender may waive the personal appearance in writing or by voluntary absence from the institution.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Full Board Review

Full Board Review

254-40-025 (1) Whenever a panel makes a decision affecting an offender sentenced to life imprisonment, convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the offender with causing the death of the victim, and/or sentenced under ORS 161.725 and 161.735 as a dangerous offender, the decision will be reviewed by the full membership of the Board.

(2) Whenever a single member makes a recommendation affecting an offender, the recommendation will be reviewed by the full Board and decided by a majority vote of the Board.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Method

254-40-030 (1) Full Board reviews will be accomplished by the Board without the presence of the offender:

(a) by circulating the offender's record and a copy of the member or panel's proposed action for individual members' comments and votes, or

(b) by consideration at a business meeting providing all voting members are present.

(2) Notwithstanding subsection (1), a preliminary hearing or a parole hearing con-

ducted by all five voting members of the Board will satisfy the requirements of this section.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

reviews of Parole Hearing Dates

Reviews of Parole Hearing Dates in Excess of 12 Years

254-40-035 In addition to the foregoing review procedures, an offender who is (1) convicted of a crime involving the death of the victim, whether or not the prosecution

directly charged the person with causing the death of the victim, (2) sentenced to life imprisonment, and/or (3) sentenced under ORS 161.725 and 161.735 as a dangerous offender, and who has a parole hearing date in excess of twelve years from his preliminary hearing date, may request and will be granted a full Board hearing at his next biennial review if he has served one-third and two-thirds, respectively, of the period of incarceration set by the Board at the preliminary hearing to determine whether modification of the parole hearing date is appropriate under rule 254-30-050. Rules 254-40-015 and 254-40-025 are suspended for the purpose of this type review.

Statutory Authority: ORS Chapter 144
 Hist: Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

DIVISION 50

PAROLE HEARINGS

Parole Consideration Hearings

254-50-005 An offender committed to the custody of the Corrections Division and incarcerated will be given a hearing to determine whether parole release will be granted on the date set for a parole hearing by the Board under rules 254-30-032 or 254-30-050.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Panel

254-50-010 Parole hearings will be conducted by panels of two or more voting members.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Actions

254-50-015 The panel may order parole, set a new parole hearing date, deny parole, or continue the hearing for a reasonable period of time.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Decisions

254-50-020 Decisions must be reached in accordance with rule 254-30-020.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

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Instate Parole Hearing Procedures

254-50-025 (1) Notice: At a reasonable time prior to a parole hearing, the offender will be notified at his place of confinement of the scheduled parole hearing. The notification will include the date and place of hearing, and will advise the offender that information may be provided to the Board in writing or by persons sending written information to the Board.

(2) Appearance: No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers or lack of mental capacity. Assistance will be provided to offenders meeting this criteria by persons recommended by the superintendent and appointed by the chairman of the Board.

(3) Record: A record of any and all parole hearings will be kept by the Board for at least two years. The record will contain:

(a) documents considered by the Board at the hearing,

(b) 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.)

(4) Notice of Order: After deliberation the Board may notify the offender orally of its decision at the parole hearing. The Board will provide the offender with written notice of the decision within a reasonable time. The oral notification may accompany the written notification will advise the offender of the reason(s) for the decision, his right to administrative appeal under rule 254-80-005 and to judicial review under ORS 144.335.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Out-of-State Parole Hearing ProceduresOut-of-State Parole Hearing Procedures

254-50-030 An offender who is in the

custody of the Corrections Division who is housed in an out-of-state facility will receive a parole hearing in conformance with rule 254-50-025. However, the hearing may be conducted by conference telephone call.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

DIVISION 55

ORS 144.050
PAROLE CONSIDERATION HEARINGS

ORS 144.050 Parole Consideration Hearings

254-55-005 An offender confined in a jail facility as defined in ORS 144.050 for a period of six months or longer will be given a hearing upon the offender's written application, except that no such person will be considered for parole until four months of the sentence have been served.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

Panel

254-55-010 Parole hearings will be conducted by one voting member.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

Actions

254-55-015 The member may order parole,

set a new parole hearing date, or continue the hearing for a reasonable period of time.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

Decision

254-55-020 The decision of the Board member is the decision of the Board.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

Parole Hearing Procedure

254-55-025 The parole hearing will be conducted in conformance to rule 254-50-025 except that any assistant provided to the offender will be recommended by the chief custodian of the jail facility and appointed by the chairman of the Board.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

DIVISION 60

PAROLE RESCISSION

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Procedure

254-60-005 The Board may rescind a parole after it has been ordered but prior to release from custody by conducting a rehearing consistent with rules 254-50-025 or 254-50-030, upon recommendation of an institution superintendent, Chief of Field Services, or a Board member, and with the concurrence of three voting members. All parties will be given written reasons for the action taken.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Suspension

254-60-010 The Chairman may on his own motion suspend the release date of an offender. Suspension will be for such time as is reasonably necessary to conduct the rescission hearing and make a decision.

Parole Order Voided

254-60-015 An offender who voluntarily absents himself and is not available for a rescission hearing will have his parole order voided by the chairman. The offender will be scheduled for a rescission hearing when available at the parent institution.

Statutory Authority: ORS Chapter 144
 Hist: Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Basis for Rescission

254-60-020 At the hearing, the Board will take relevant, material, and reliable information of offender misconduct which causes the hearing to be held. A decision to rescind will indicate the misconduct and set a new parole hearing date.

Statutory Authority: ORS Chapter 144
 Hist: Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

DIVISION 70

PAROLE REVOCATION

Purpose

254-70-005 when the board is informed and has reasonable grounds to believe that a parolee has violated the conditions of his parole, these procedures will be utilized to determine whether a violation of condition(s) has occurred and whether parole should be continued, revoked and reinstated, or revoked.

Statutory Authority: ORS Chapter 144
 Hist: filed and Eff. 1-26-77
 as 1PB 3(Temp)
 filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Suspension of Parole

254-70-010 upon notice that a parolee has been arrested and detained pursuant to ORS 144.350, or upon his own motion, the chairman of the Board or his designee will initiate these procedures. Parole suspension may be ordered pursuant to ORS 144.331.

Statutory Authority: ORS Chapter 144
 Hist: filed and Eff. 1-26-77
 as 1PB 3(Temp)
 filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Notice

254-70-015 within a reasonable time before a hearing which may result in the revocation of active parole status, the parolee shall be interviewed and receive a notice containing the following information:

- (1) A concise written statement of the alleged violations and the evidence which forms the basis of the alleged violations.
- (2) The parolee's right to a hearing and the time, place, and purpose of the hearing.
- (3) The names of the persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present

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at the hearing for the purpose of confrontation and cross-examination, unless it has been determined that there is good cause for not revealing names nor allowing confrontation.

(4) The parolee's right to present letters, documents, affidavits, or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk or harm if their identity were disclosed.

(5) The parolee's right to subpoena under ORS 144.347, unless limited by (3) or (4) above.

(6) The parolee's right to be represented by counsel, and, if indigent, to have counsel appointed at state expense if the Board or its designated representative determines, after request, that the request has merit in view of the total situation, and it is claimed that:

- (a) the parolee has not committed the alleged violation of parole conditions; or
- (b) even if the violation is a matter of public record or is uncontested, there are substantial and complex reasons which make revocation inappropriate; or
- (c) the parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Waiver

254-70-020 After notice as set out above, and full advice of rights and procedure, the parolee may waive his right to a formal parole violation hearing and elect to proceed informally at the initial interview:

- (1) The parolee may or may not make a statement, written or, where possible, oral, in which he may admit, not contest, or deny the alleged violations, and may provide information supporting his retention of active parole status in any case.
- (2) The record of such informal proceeding shall include supporting evidence, notice forms properly executed, and statements by parolee in whatever form given, and shall be transmitted to the Board or

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is designated representative for review and preparation of proposed findings, recommendations and reasons under rule 254-70-030.

(3) Election to proceed informally includes waiver of right to representation at all phases through board decision, and of the right to present witnesses and evidence not present during the interview.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Formal Hearings

254-70-025 Formal hearings may be conducted by a Board member or a designated representative:

(1) Evidence: At formal hearings, the following material may be received in evidence:

- (a) oral testimony under oath,
- (b) reports made in the course of official duty or professional practice including, but not limited to, reports of law enforcement officers, parole officers, social workers, doctors, and attorneys,
- (c) documents which the Board determines to be relevant, material, and reliable,
- (d) if the Board determines evidence to be relevant, material, and reliable, it shall not be excluded on the grounds of hearsay or lack of opportunity for cross-examination,

(e) information adverse to the parolee may be received in evidence without disclosure of the identity of the source of the information to the parolee, if the Board or its representative determines there is good cause for nondisclosure. The basis of the Board's or its representative's determination shall be made a part of the record and shall be sealed. This record shall only be available to the Board or a reviewing judicial body.

(2) Record of hearing: A record shall be made of the formal hearing which shall include all evidence received and considered, and manual or mechanical recording of all oral testimony and presentations.

Statutory Authority: ORS Chapter 144

Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Findings, Recommendation, and Reasons for Recommendation

254-70-030 (1) Proposed: After either an informal or a formal hearing, the parolee will be provided with proposed findings, recommendation, and reasons for the recommendation. Unless he waives this right, the parolee shall have 10 days from the date of mailing of the proposed findings, recommendation, and reasons to file written exceptions and arguments with the Board. Proposed findings are not required if the hearing is conducted by a panel of the Board. If counsel has been requested and denied, the proposed findings, recommendations and reasons will reflect the grounds of the denial.

(2) Final: A majority of the Board may adopt the proposed findings, recommendation, and reasons, may modify them, or may adopt other findings, order, and reasons therefore. A copy of the final findings, order, and reasons for order will be forwarded to the parolee with notice of his right to administrative review pursuant to rule 254-80-005 and to judicial review under ORS 144.335.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Revocation Procedures Where Parolee Out of State

254-70-035 When a parolee has left the state without permission, or is in custody in a state to which he has not been paroled or is in federal custody, his parole may be revoked and his return may be ordered by the Board without any parole revocation proceedings. If returned to any Corrections Division institution in this state, he will be given a hearing under rule 254-70-045.

Statutory Authority: ORS Chapter 144

Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Parolee Receiving New Conviction

254-70-040 (1) A parolee who is convicted of any felony, or its equivalent under Oregon laws, in any jurisdiction, may have parole revoked by the board without any proceeding other than receipt of proof of conviction. An order revoking parole or other disposition will be sent by certified mail to the parolee at his last known address and to the agency having present custody.

(2) If an offender is returned to the custody of the Corrections Division, he will be given a hearing under rule 254-70-045.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Future Disposition Hearing

Future Disposition Hearing

254-70-045 (1) Purpose: within a reason-

able time after return to Corrections Division confinement after parole is revoked, the Board will schedule and conduct a hearing to establish future disposition of the offender. This hearing shall be conducted under the procedures of a parole hearing as provided in rule 254-50-015.

(2) Good Time After Revocation: Decisions regarding restoration of institution good time, statutory and meritorious, earned but forfeited upon parole will be made as follows:

(a) Good Time may be restored where the inmate was returned with a new consecutive sentence, or where the Board denies further parole consideration regardless of reason for return.

(b) The future disposition hearing will be scheduled early in those cases where the institution is deferring program decisions until after the issue of restoration is decided. In such cases, the superintendent's request for an early future disposition hearing and good time recommendation will initiate an accelerated hearing date.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

DIVISION 80

ADMINISTRATIVE APPEAL

Hist: Filed and Eff. 1-26-77
 as 1PB 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

Method of Appeal

254-80-005 Administrative appeal may be requested by an offender or a Board member, when the basis for the appeal meets the criteria of the Board. The chairman shall examine the request to ascertain whether or not it is meritorious, consistent with the Board's criteria and would have affected the decision. Should this examination satisfy the above requirements, the chairman will remand the case to the panel which heard it if possible. The appeal panel will conduct a new hearing. If the requirements are not met, the chairman will inform the offender in writing that the prior decision remains in effect.

Statutory Authority: ORS Chapter 144

Criteria for Appeal

254-80-010 The basis for appeal must fall within one of the following criteria:

- (1) The written finding of the Board does not reflect the Board action;
- (2) Pertinent information was available at the time of the original hearing which, through no fault of the offender, was not considered at the parole hearing;
- (3) The action of the board is inconsistent with its policies or is contrary to law.

Statutory Authority: ORS Chapter 144
 Hist: Filed and Eff. 1-26-77
 as 1PE 3(Temp)
 Filed 5-24-77 as 1PB 4,
 Eff. 5-25-77

DIVISION 90

DISCHARGE

Discharge Generally

254-90-005 The following criteria and matrix will govern tentative discharge dates to be announced as a part of the hearing wherein parole is ordered and will be affixed to orders of parole:

(1) Criteria: During the term of active parole indicated in the matrix, the parolee must show evidence of satisfactory parole adjustment.

(2) Matrix:

(a) One-year active parole:

(A) Categories 1 & 2: H/R 11-0

(E) Category 3: H/R 11-3

(C) Category 4: H/R 11-6

(b) Time incarcerated prior to parole order will equal time on parole to tentative discharge:

(A) Category 3: H/R 2-0

(b) Category 4: H/R 5-0

(C) Category 5 & 6: H/R 11-0

Exception: Where time served exceeds 10 years, discharge may occur after 10 years' active parole, or expiration, whichever is first. This does not preclude early termination under rule 254-90-01Q(3) below.

Statutory Authority: ORS Chapter 144

Hist: Filed and Eff. 1-26-77

as 1PB 3(Temp)

Filed 5-24-77 as 1PB 4,

Eff. 5-25-77

Procedure

254-90-010 A minimum of 30 days prior to the tentative discharge date affixed to the order of parole, the supervising officer will prepare and send to the Board a Supervisory Report. This report will recommend one of two courses:

(1) That the Discharge Certificate be for-

warded to the supervising officer for presentation to the parolee on the tentative discharge date or the first prior business day. The supervising officer will thereafter receive the Certificate, will make presentation in person or by certified mail at confirmed address, and will return proof of presentation directly to the Board provided that no facts are discovered between the submission of the supervising officer's report and the discharge date which indicate discharge should not occur; or

(2) That the discharge not be granted on the tentative date. The Report will contain information showing that discharge is presently incompatible with rule 254-90-005 (1), will suggest a new discharge date, and will explain why such extension is best for the parolee and society. The Board will consider the recommendation in the same manner as rule 254-40-030(1), and will notify the supervising officer in writing of its decision and reasons therefore. The supervising officer will then either receive, present, and return proof as in (1) above, or will notify the parolee of the new discharge date and reasons.

(3) Notwithstanding (1) and (2), in any case after expiration of one year active parole when the supervising officer believes discharge should precede the date affixed to the order of parole, he may notify the Board with written reasons and recommendation. After consideration as in rule 254-40-030(1), the Board will either forward a Discharge Certificate or a written explanation for denial of the request.

(4) In those discharge cases where the Board desires further information on which to base its decision, it may dispatch a designated representative or Board member to conduct a hearing in accordance with rule 254-70-025(1).

Statutory Authority: ORS Chapter 144

Hist: Filed and Eff. 1-26-77

as 1PB 3(Temp)

Filed 5-24-77 as 1PB 4,

Eff. 5-25-77

EXHIBIT A

Offense Severity Under Rule 30-030

<u>OFFENSE</u>	<u>RATING</u>
<u>Bribery</u>	
162.015 - Bribe Giving	3
162.025 - Bribe Receiving	3
<u>Perjury</u>	
162.065 - Perjury	2
<u>Escape Related</u>	
162.155 - Escape II	2
162.165 - Escape I	4
162.185 - Supplying Contraband	1
162.205 - Failure to Appear I	2
<u>Obstructing Governmental Administration</u>	
162.265 - Bribing a Witness	2
162.275 - Witness Receiving Bribe	2
162.325 - Hindering Prosecution	1
<u>Homicide</u>	
163.115 - Murder	7
163.118 - Manslaughter I	6
163.125 - Manslaughter II	5
163.145 - Criminally Negligent Homicide	2
<u>Assault Related</u>	
163.175 - Assault II	4
163.185 - Assault I	5
163.205 - Criminal Mistreatment	2
<u>Kidnapping Related</u>	
163.225 - Kidnapping II	4
163.235 - Kidnapping I	6
163.257 - Custodial Interference I	2

EXHIBIT A(Continued)

<u>OFFENSE</u>	<u>RATING</u>
<u>Coercion</u>	
163.275 - Coercion	2
<u>Sexual Offenses</u>	
163.355 - Rape III	2
163.365 - Rape II	4
163.375 - Rape I	6
163.385 - Sodomy III	2
163.395 - Sodomy II	4
163.405 - Sodomy I	6
163.425 - Sexual Abuse I	2
<u>Family Offenses</u>	
163.515 - Bigamy	1
163.525 - Incest	1
163.535 - Abandon Child	2
163.555 - Criminal Nonsupport	1
<u>Theft Related</u>	
164.055 - Theft I	2
164.065 - Theft: lost, mislaid	1
164.075 - Theft by Deception	1
164.095 - Theft by Receiving	2
164.125 - Theft of Services	1
164.135 - Unauthorized Use of Motor Vehicle	2
<u>Burglary</u>	
164.215 - Burglary II	2
164.225 - Burglary I	4
<u>Arson</u>	
164.315 - Arson II	2
164.325 - Arson I	5
164.365 - Criminal Mischief I	1
<u>Robbery</u>	
164.395 - Robbery III	2
164.405 - Robbery II	4
164.415 - Robbery I	5

EXHIBIT A(Continued)

<u>OFFENSE</u>	<u>RATING</u>
<u>Forgery Related</u>	
165.013 - Forgery I	2
165.022 - Forged Instrument I	1
165.032 - Forgery Device	1
165.055 - Fraudulent Use of a Credit Card	1
165.070 - Fraudulent Communication Device	1
<u>Business/Commercial</u>	
165.085 - Sports Bribery	2
165.090 - Sports Bribe Receiving	2
<u>Riot Related</u>	
166.005 - Treason	7
166.015 - Riot	2
<u>Firearms</u>	
166.270 - Ex-Convict in Possession	2
166.410 - Sale related	2
<u>Prostitution Related</u>	
167.012 - Promoting Prostitution	1
167.137 - Compelling Prostitution	3
<u>Gambling</u>	
167.127 - Promoting Gambling	1
167.137 - Possession of Gambling Records I	1
<u>Drugs Related</u>	
167.207(1) - Criminal Activity in Drugs	3
167.207(4) - Criminal Activity in Drugs	4
167.212 - Tampering with Drug Records	1
167.278 - Obtaining Drugs Unlawfully	1

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

ITEM	Score
(A) No prior felony or misdemeanor convictions as an adult or juvenile:	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0
(B) No prior commitments of 60 days or more as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0
(C) Age at first commitment of 60 days or more:	
26 or older:	2
19 through 25:	1
18 or younger:	0
(D) Never escaped, failed parole or probation:	2
One of the above items:	1
Two or more of the above items:	0
(E) Has no admitted or documented alcohol or drug abuse problem:	1
Otherwise:	0
(F) Verified employment or full-time school attendance during 6 months of the last 24 months in the community, or 5 years conviction-free in the community:	1

EXHIPIT B (Continued)

<u>ITEM</u>	<u>SCORE</u>
Check the appropriate items, if:	
<input type="checkbox"/> Employment	
<input type="checkbox"/> School Attendance	
<input type="checkbox"/> Conviction-free Period	
Otherwise:	0 _____
TOTAL HISTORY ASSESSMENT SCORE:	=====

EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
	11-9	8-6	5-3	2-0
Category 1 - - - - -	4-8	4-8	5-12 (5-9)*	12-22 (9-14)
Category 2 - - - - -	4-8	5-10 (5-9)	10-18 (9-14)	18-28 (14-28)
Category 3 - - - - -	5-10 (5-9)	10-16 (9-14)	16-24 (14-18)	24-42 (18-24)
Category 4 - - - - -	10-16 (9-14)	16-22 (14-18)	22-30 (18-24)	30-48 (24-36)
Category 5 - - - - -	16-22 (14-18)	22-28 (18-22)	28-36 (22-30)	36-72 (30-56)
Category 6 - - - - -	24-48	36-60	48-84	60-144
** Category 7 - - - - -	10-14 yrs.	12-20 yrs.	18-26 yrs.	24-life yrs.

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

**The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT D

Aggravation/Mitigation - Rule 30-033

AGGRAVATIONMITIGATION

Production or use of any weapon during the criminal episode.	Withdrawal insufficient to constitute a defense but indicative of lesser intent; or peripheral involvement in the episode.
Substantial property loss or damage during the episode; or criminal exploitation of a position of trust.	Amounts of money or property taken, lost or damaged were deliberately small.
Particularly vulnerable victims i.e., aged, handicapped, very young; or degree of any physical injury to any person during the episode; or threat or violence toward witnesses or other persons.	Victim or victims provoked the crime to a significant degree.
Ability to pay fines, restitution or costs and failure to do so.	Effort to make restitution or reparation.
More than one offense.	Cooperation with criminal justice agencies in resolution of other criminal activity.

EFF

10-4-77

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

CERTIFICATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Board of Parole

(Agency)

RECEIVED
MAR 17 1993
BOARD OF PAROLE

Date of adoption, amendment or repeal:

October 4, 1977

FILED
OCT 4 1977
NORMA PAULUS
SECRETARY OF STATE

By: Ira Blalock

(Authorized Signer)

Title: Chairman

5:15 p.m.
041

Effective Date: October 4, 1977 Statutory Authority: ORS 192.410 to 192.500; 144.130.

Rule Number(s) 254-30-030, 254-30-032, 254-30-034, 254-30-040, 254-30-050, 254-40-005, 254-40-035,
254-40-040, 254-50-025, 254-70-042, 254-70-045.

New Rule Amends Repeals Temporary Permanent

Subject matter and purpose of rule: Revises existing Board of Parole rules to comply with HB 2013
and makes other modifications.

ORDER

The within matter having come before the Board of Parole after

(Agency)

publication of the intended action upon not less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. Temp.

Adopted: 254-40-040, 254-70-042, Exhibit E, Exhibit F

Amended: 254-30-030, 254-30-032, 254-30-034, 254-30-040, 254-30-050,

254-40-005, 254-50-025, 254-70-045, Exhibit D

Repealed: 254-40-035.

as Administrative Rules of the _____

DATED this 4th day of October, 19 77

(Agency)

By: Ira Blalock

(Authorized Signer)

Title: Chairman


STATE BOARD OF PAROLE

In the Matter of Board of Parole
Rules Relating to Decision Making
Required by Enrolled House Bill 213
(multiple convictions, denial,
minimum sentences, access to
information, institutional misconduct,
reviews, parole plans and revocation)

Notice of
Intent to
Adopt Rules

- (1) On October 4, 1977, the State Board of Parole adopted temporary rules in regard to multiple convictions, denial, minimum sentences, access to information, institutional misconduct, reviews, parole plans and revocation as required by ORS 144.130 (HB 2013).
- (2) On or before February 1, 1977, the Board of Parole proposes to adopt the temporary rules as permanent rules.
- (3) A completed copy of the proposed rules may be obtained by writing to Mr. Larry Macnab, Board of Parole, 2575 Center Street N. E., Salem, Oregon 97310.
- (4) If, prior to November 1, ten or more persons make a written request for an oral hearing, the Board of Parole will schedule an oral hearing and publish notice of time, place and date.

Dated October 4, 1977



Ira Blalock, Chairman
State Board of Parole

Offense Severity

254-30-030 (1) The Board will use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, will assign a severity rating from one to seven as set forth in Exhibit A.

(2) Exceptions:

(a) Any time a firearm is discharged or a person is seriously injured by whatever means during commission of a felony, the offender will be assigned a rating of not less than six.

(b) Multiple convictions with concurrent sentences will be classified according to the crime bearing the highest rating.

(c) Attempt (ORS 161.405), Solicitation (ORS 161.435), and Conspiracy (ORS 161.450), will be assigned a rating one category less than the criminal activity intended.

(d) Crimes not listed will be rated by comparison to crimes listed on the table.

(e) When an offender is serving two or more consecutive sentences the term of imprisonment will be the sum of the established ranges set forth in Exhibit C.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as IPB 3 (Temp)
Filed 5-24-77 as IPB 4,
Eff. 5-25-77

Parole Hearing Date Set

254-30-032 (1) The Board will set a parole hearing date within the parameters of the matrix in Exhibit C unless it finds aggravation or mitigation under rule 254-30-033, or the sentence length is shorter than the matrix bracket. In the latter case, the parole hearing date set will be considered within the guidelines if the parole hearing date is set within nine months of the statutory good time date.

(2) The Board may deny parole when the aggravating circumstances or the shortness of the sentence do not allow the offender to serve the appropriate time called for under OAR 254-30-032 and OAR 254-30-033.

Statutory authority ORS 144.120 and 144.780.

ORS Chapter 144

Hist: Filed and Eff. 1-26-77
as 1PB 3(Temp)
Filed 5-24-77 as 1PB 4,
Eff. 5-25-77

Judicial Recommendations

254-30-034 (1) The sentencing judge may make recommendations outside guideline ranges. Such recommendations and the supporting reasons shall be sent to the chairman, made a confidential part of the record, and considered at the preliminary hearing.

(2) Mandatory Minimum Sentences

The Board will only override a judicially imposed minimum if it exceeds the bottom of the guideline range and adequate reasons are not articulated in the sentencing order. A member making such a recommendation will refer the matter to the chairman who will schedule the case for the full Board.

Statutory Authority: ORS Chapter 144
Hist: Filed and Eff. 1-26-77
as IPB 3 (Temp)
Filed 5-24-77 as IPB 4,
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Notice

254-30-040

(1) The offender will be notified in writing of his preliminary hearing and its purpose within a reasonable time before the hearing is conducted.

(2) The offender will be notified in writing, of his parole hearing date and reasons for the date set if it is outside the established matrix.

(3) The offender will be notified in writing if his established parole hearing date is scheduled for reconsideration pursuant to rule 254-30-050.

(4) The offender will be given a written statement of reasons if his established parole hearing date is reset under rule 254-30-050.

(5) The offender will be given written notice of his right to administrative appeal of the decision under rules 254-80-005 and 254-80-010. Access to Information

(6) The inmate shall be given access to the parole analysis report prior to the hearing. This report shall be prepared in accordance with the sectional outline included in Exhibit E.

(7) Exceptions: The last section of the report shall be marked "CONFIDENTIAL" and will not be disclosed. It shall include two subsections.

(a) The first shall include recommendations from release services, judges, prosecutors, law enforcement agencies, and other correctional officials.

(b) The second subsection shall include other confidential information exempt from disclosure under paragraph (d) of subsection (2) of ORS 192.500.

(8) Material which was not included in the parole analysis report

and is first considered by the Board during the hearing shall be made accessible to the prisoner for review unless it is exempted under (2) (b) above.

(9) Material prepared and considered at hearings prior to October 4, 1977, the effective date of ORS 144,130, shall not be subject to this rule. (Rules 291-40-528 and 291-40-529 of the Department of Human Resources, Corrections Division are incorporated by reference.)

Parole Hearing Date Resets

254-30-050 (1) An established parole hearing date may be reset to an earlier time upon recommendation of institution superintendent or a Board member, and after the concurrence of a voting majority of the Board.

(2) An established parole hearing date may be reset to a later date upon recommendation of an institution superintendent or a Board member, and after the concurrence of a quorum of the Board, but only after the offender has had an opportunity to appear pursuant to rule 254-30-005, et. seq. An offender may waive his right to appear in writing or by voluntary absence from the institution.

(3) No established parole hearing date may be reset without a written statement of reasons.

(4) Misconduct which constitutes a felony under ORS will be treated as if it were a new conviction, whether or not it is prosecuted in the courts. The guideline ranges will be applied unless a findings of aggravation and mitigation is made. In calculating the history/risk score in such matters the current incarceration will not be considered a prior incarceration. The commitment conviction will be considered a prior conviction.

(5) The Board will not reset a parole hearing date for longer than four months for non-felonious misbehavior except in cases where the Board finds aggravation present. Particularized written findings of aggravating factors will be entered into the minutes for sanctions exceeding four months.

(6) The Board may continue the parole hearing and order a psychiatric examination when it appears that a severe emotional disturbance is

present. If a psychiatric or psychological diagnosis of present severe emotional disturbance is present, the Board may defer release to a specified future date or deny parole.

Statutory Reviews

254-40-005 [In cases where the Board establishes a parole hearing date more than two years from the date of the current hearing, it shall also establish review dates every two years or less.]

Reviews will be conducted after four years have elapsed since the first board hearing and every three years thereafter, except for dangerous offenders sentenced under ORS 161.725 and 161.735 who shall be seen every two years as required by statute. Reviews that have been scheduled prior to January 26, 1977 (the effective date of the rules) will be conducted as scheduled. Reviews scheduled subsequent to January 26, 1977 will be rescheduled to comply with this rule.

[Reviews of Parole Hearing Dates in Excess of 12 Years

254-40-035 In addition to the foregoing review procedures, an offender who is (1) convicted of a crime involving the death of the victim, whether or not the prosecution directly charged the person with causing the death of the victim, (2) sentenced to life imprisonment, and/or (3) sentenced under ORS 161.725 and 161.735 as a dangerous offender, and who has a parole hearing date in excess of twelve years from his preliminary hearing date, may request and will be granted a full Board hearing at his next biennial review if he has served one-third and two-thirds, respectively, of the period of incarceration set by the Board at the preliminary hearing to determine whether modification of the parole hearing date is appropriate under rule 254-30-050. Rules 254-40-015 and 254-40-025 are suspended for the purpose of this type review.]

Access to Information

254-40-040 Information made available to the Board from sources other than the prisoner shall be disclosed at the hearing unless such material is exempt from disclosure under paragraph (d) of subsection (2) of ORS 192.500.

Material prepared and considered at hearings prior to October 4, 1977, the effective date of ORS 144.130, shall not be subject to this rule. (Rules 291-40-528 and 291-40-529 of the Department of Human Resources, Corrections Division are incorporated by reference.)

Instate Parole Hearing Procedures

254-50-025 (1) Notice: At a reasonable time prior to a parole hearing, the offender will be notified at his place of confinement of the scheduled parole hearing. The notification will include the date and place of hearing, and will advise the offender that information may be provided to the Board in writing or by persons sending written information to the Board.

(2) Appearance: No person, other than the offender, shall appear in the offender's behalf unless the offender is incapable of presenting his position due to language barriers or lack of mental capacity. Assistance will be provided to offenders meeting this criteria by persons recommended by the superintendent and appointed by the chairman of the Board.

(3) Record: A record of any and all parole hearings will be kept by the Board for at least two years. The record will contain:

(a) documents considered by the Board at the hearing,

(b) 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.)

(c) The Board shall examine the offender's plans for residence, employment or other situation in the community prior to approving release. An acceptable plan generally includes employment, school or other situation and suitable residence. In addition, treatment programs and medication may be required. If any portion of the plan is inadequate, the Board shall specify the ways in which the plan is deficient and order the offender's deferral. The Board may order release to a plan approved by the Corrections Division or require resubmission of a

verified plan to the Board after 30 days. Total deferral shall not exceed ninety days from the initial parole release date.

(4) Notice of Order: After deliberation, the Board may notify the offender orally of its decision at the parole hearing. The Board will provide the offender with written notice of the decision within a reasonable time. The oral notification may and the written notification will advise the offender of the reason(s) for the decision, his right to administrative appeal under rule 254-80-005 and to judicial review under ORS 144.335.

Access to Information

254-50-025 (5) A prisoner shall have access to information considered by the Board of Parole at his parole hearing unless it is exempt from disclosure under paragraph (d) of subsection (2) of ORS 192.500.

Material prepared and considered at hearings prior to October 4, 1977, the effective date of ORS 144.130, shall not be subject to this rule. (Rules 291-40-528 and 291-40-529 of the Department of Human Resources, Corrections Division are incorporated by reference.)

Return for Technical Violation

254-70-042 (1) A parolee revoked and returned after release with an original crime severity of 1 through 5 will serve 4 to 6 months before rerelease unless aggravating or mitigating factors are present.

(2) A parolee revoked and returned after release with an original crime severity of 6 or 7 will serve 6 to 10 months unless aggravating or mitigating factors are present.

(3) Usual but not exclusive factors in aggravation or mitigation are shown in Exhibit F.

Future Disposition Hearing

254-70-045 (1) Purpose: Within a reasonable time after return to Corrections Division confinement after parole is revoked, the Board will schedule and conduct a hearing to establish future disposition of the offender. This hearing shall be conducted under the procedures of a parole hearing as provided in rule 254-50-015.

(2) Good Time After Revocation: Decisions regarding restoration of institution good time, statutory and meritorious, earned but forfeited upon parole will be made as follows:

(a) Good Time may be restored where the inmate was returned with a new consecutive sentence, or where the Board denies further parole consideration regardless of reason for return.

(b) The future disposition hearing will be scheduled early in those cases where the institution is deferring program decisions until after the issue of restoration is decided. In such cases, the superintendent's request for an early future disposition hearing and good time recommendation will initiate an accelerated hearing date.

Parolee Returned with new crime

(3) A new history/risk score reflecting the new conviction will be calculated. In calculating the history/risk score the original or former conviction, incarceration and parole failure will result in lost points. The offense severity will be assigned in accordance with the most recent conviction(s) as set forth in Exhibit A.

(4) If the parolee's sentence on his new conviction is imposed consecutive to the original or former commitment, the Board will give credit for the time served in the institution on the original or former conviction.

EXHIBIT D

Aggravation/Mitigation - Rule 30-033

AGGRAVATION

Production or use of any weapon during the criminal episode.

Substantial property loss or damage during the episode.[or criminal exploitation of a position of trust.]

Particularly vulnerable victims i.e., aged, handicapped, very young; or degree of any physical injury to any person during the episode; or threat or violence toward witnesses or other persons.

Ability to pay fines, restitution or costs and failure to do so.

More than one concurrently imposed conviction.

Facts indicate a more serious crime has been plea or charge bargained to a lesser included offense or charges were dropped.

Violation of position of public trust or of recognized professional ethics.

MITIGATION

Withdrawal insufficient to constitute a defense but indicative of lesser intent; or peripheral involvement in the episode.

Amounts of money or property taken, lost or damaged were deliberately small.

Victim or victims provoked the crime to a significant degree.

Effort to make resitution or reparation.

Convictions arise out of the same criminal episode or spree.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Mental attitude was such that there was no sustained criminal intent to violate the law or the criminal act was motivated by benevolent purposes.

EXHIBIT E

Section I:

Identifying data

Matrix application

Present crime synopsis

Aggravating and mitigating factors

Conviction chronology & arrest record

Brief Social profile

Criminal history/risk assessment

Section II:

(1) Confidential recommendations

(2) Other confidential data

EXHIBIT F

Aggravation

Less than 6 months
to first difficulty.

Prior difficulty while
on parole or previous
revocation.

Findings at the Morrissey
Hearing of probably cause
to believe new criminal
activity has occurred.

Resistance to parole
supervision, return to
heavy alcohol or drug use,
possession of any weapon.

Mitigation

More than 9 months to
first difficulty.

No prior trouble
while on parole.

No basis to believe criminal
activity had occurred.

Cooperation with parole
plan until new difficulty.
No alcohol or drug abuse.

FILED
OCT 2 1977
NORMA PAULUS
SECRETARY OF STATE

Drank, Bl. of
SPB 5
10-4-77 10-4-77

NEW JERSEY
DEPT. OF TREASURY
POST OFFICE

Adoption of 254-40-040,
254-70-052; Amendments

254-30-030, 30-033, 30-034,
30-040, 30-050, 40-005, 50-02,
& 70-045; repeals 254-40-03,

relating to multiple
Conventions) several Minimum
Contents, access to information
institutional management
services, parole plans &
recreation.

EFF

10-10-77

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

CERTIFICATE

HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Board of Parole

(Agency)

Date of adoption, amendment or repeal:

October 10, 1977

By: Ira Blalock

(Authorized Signer)

Title: Chairman

RECEIVED
MAR 17 1993
BOARD OF PAROLE

FILED
OCT 10 1977
NOV 1 1977
SECRETARY OF STATE

J. S. Sptm. Klc

Effective Date: October 10, 1977 Statutory Authority: ORS 192.410 to 192.500

Rule Number(s) 254-00-005, 254-00-010

New Rule Amends Repeals Temporary Permanent

Subject matter and purpose of rule: Establishes Procedural Rules for the existing Board of Parole rules.

ORDER

The within matter having come before the Board of Parole after

(Agency)

publication of the intended action upon : of less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. Temp.

Adopted: 254-00-005, 254-00-010

Amended: _____

Repealed: _____

as Administrative Rules of the Board of Parole

DATED this 10th day of October, 19 77

By: *Ira Blalock*
(Authorized Signer)

Title: Chairman

DIVISION 0

PROCEDURAL RULES

Adoption, Amendment, or Repeal of Rules

254-00-005 Prior to the adoption, amendment, or repeal of any rule, the Chairman, Board of Parole shall give notice of the proposed adoption, amendment, or repeal:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least fifteen (15) days prior to the effective date.
- (2) By mailing a copy of the notice to persons on the Board of Parole mailing list established pursuant to ORS 183.335(6).
- (3) By mailing a copy of the notice to the following persons, organizations, or publications:
 - (a) Oregon State Bar Bulletin;
 - (b) United Press International and Associated Press;
 - (c) University of Oregon School of Law;
 - (d) Lewis and Clark College School of Law;
 - (e) Marion-Polk Legal Aid Service;
 - (f) Multnomah County Legal Aid Services;
 - (g) American Civil Liberties Union;
 - (h) Willamette University College of Law.
- (4) By posting on bulletin boards and placing in the general reading section of the libraries of the institutions of the Corrections Division.

Statutory Authority: ORS 183.341

Model Rules of Procedure

254-00-010 Pursuant to the provisions of ORS 183.341, the Board of Parole adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act.

Statutory Authority: ORS 183.341

FILED
OCT 10 1977
NORMA PAULUS
SECRETARY OF STATE

Agency: *Frank B. B. of*
File #: *SPB 6 (1)* A.M.
Revised: *10-10-77*
Effective: *10-10-77*

Amended:

Subject:

Adoptive 7 254-01-005 A
254-01-010, adoptive 7
Public 7 Program & Title A
the Attorney General's Model
Public Procedure.

EFF

11-29-77

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

CERTIFICATE

HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Board of Parole

(Agency)

Date of adoption, amendment or repeal:

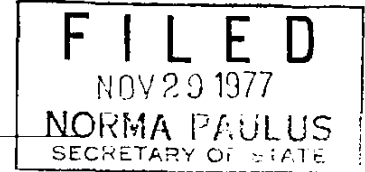
November 29, 1977

By:

Sha Paulus
(Authorized Signer)

Title:

Chairman



RECEIVED
MAR 17 1993
BOARD OF PAROLE

Effective Date: November 29, 1977 Statutory Authority: ORS 192.410 to 192.500; 144.130.
254-30-030, 254-30-032, 254-30-034, 254-30-040, 254-30-050, 254-40-005, 254-40-035,
Rule Number(s) 254-40-040, 254-50-025, 254-70-042, 254-70-045.

New Rule Amends Repeals Temporary Permanent

Subject matter and purpose of rule: Revises existing Board of Parole rules to comply with House
Bill 2013 and makes other modifications.

ORDER

The within matter having come before the Board of Parole after
(Agency)
publication of the intended action upon not less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. Temp.

Adopted: 254-40-040, 254-70-042, Exhibit E, Exhibit F

Amended: 254-30-030, 254-30-032, 254-30-034, 254-30-040, 254-30-050,
254-40-005, 254-50-025, 254-70-045, Exhibit D

Repealed: 254-40-035

as Administrative Rules of the Board of Parole

(Agency)

DATED this 29th day of November, 1977

By:

Sha Paulus
(Authorized Signer)

Title:

Chairman

State of Need
For Temporary Rules


These rules are required by legislative changes effective October 4, 1977 by the passage of House Bill 2013. Rule No. 254-30-032 (2) is an interpretation of the language in House Bill 2013, which states " . . . the board may choose not to set a parole date." This is interpreted to mean that the Board may deny parole under the circumstances spelled out in the law.

STATE BOARD OF PAROLE

In the Matter of Board of Parole Rules)
Relating to Decision Making required)
by Enrolled House Bill 2013 (multiple)
convictions, denial, minimum sentences,)
access to information, institutional)
misconduct, reviews, parole plans and)
revocation))
Notice of
Intent to
Adopt Rules

- (1) On November 29, 1977, the State Board of Parole adopted temporary rules in regard to multiple convictions, denial, minimum sentences, access to information, institutional misconduct, reviews, parole plans and revocation as required by ORS 144.130 (HB 2013).
- (2) On or before February 1, 1978, the Board of Parole proposes to adopt the temporary rules as permanent rules.
- (3) A completed copy of the proposed rules may be obtained by writing to Jane Bailey, Board of Parole, 2575 Center Street N.E., Salem, Oregon 97310.
- (4) If, prior to December 5, ten or more persons make a written request for an oral hearing, the Board of Parole will schedule an oral hearing and publish notice of time, place and date.

Dated November 29, 1977


Ira Bialock, Chairman
State Board of Parole

Offense Severity

254-30-030 (1) The Board will use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, will assign a severity rating from one to seven as set forth in Exhibit A.

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Hist: Filed and Eff. 1-26-77
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Statutory authority ORS 144.120 and 144.780.

ORS Chapter 144

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Material prepared and considered at hearings prior to October 4, 1977, the effective date of ORS 144.130, shall not be subject to this rule. (Rules 291-40-528 and 291-40-529 of the Department of Human Resources, Corrections Division are incorporated by reference.)

Return for Technical Violation

254-70-042 (1) A parolee revoked and returned after release with an original crime severity of 1 through 5 will serve 4 to 6 months before rerelease unless aggravating or mitigating factors are present.

(2) A parolee revoked and returned after release with an original crime severity of 6 or 7 will serve 6 to 10 months unless aggravating or mitigating factors are present.

(3) Usual but not exclusive factors in aggravation or mitigation are shown in Exhibit F.

Future Disposition Hearing

254-70-045 (1) Purpose: Within a reasonable time after return to Corrections Division confinement after parole is revoked, the Board will schedule and conduct a hearing to establish future disposition of the offender. This hearing shall be conducted under the procedures of a parole hearing as provided in rule 254-50-015.

(2) Good Time After Revocation: Decisions regarding restoration of Institution good time, statutory and meritorious, earned but forfeited upon parole will be made as follows:

(a) Good Time may be restored where the inmate was returned with a new consecutive sentence, or where the Board denies further parole consideration regardless of reason for return.

(b) The future disposition hearing will be scheduled early in those cases where the institution is deferring program decisions until after the issue of restoration is decided. In such cases, the superintendent's request for an early future disposition hearing and good time recommendation will initiate an accelerated hearing date.

Parolee Returned with new crime

(3) A new history/risk score reflecting the new conviction will be calculated. In calculating the history/risk score the original or former conviction, incarceration and parole failure will result in lost points. The offense severity will be assigned in accordance with the most recent conviction(s) as set forth in Exhibit A.

(4) If the parolee's sentence on his new conviction is imposed consecutive to the original or former commitment, the Board will give credit for the time served in the institution on the original or former conviction.

EXHIBIT D

Aggravation/Mitigation - Rule 30-033

AGGRAVATION

Production or use of any weapon during the criminal episode.

Substantial property loss or damage during the episode [or criminal exploitation of a position of trust.]

Particularly vulnerable victims i.e., aged, handicapped, very young; or degree of any physical injury to any person during the episode; or threat or violence toward witnesses or other persons.

Ability to pay fines, restitution or costs and failure to do so.

More than one concurrently imposed conviction.

Facts indicate a more serious crime has been plea or charge bargained to a lesser included offense or charges were dropped.

Violation of position of public trust or of recognized professional ethics.

MITIGATION

Withdrawal insufficient to constitute a defense but indicative of lesser intent; or peripheral involvement in the episode.

Amounts of money or property taken, lost or damaged were deliberately small.

Victim or victims provoked the crime to a significant degree.

Effort to make restitution or reparation.

Convictions arise out of the same criminal episode or spree.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Mental attitude was such that there was no sustained criminal intent to violate the law or the criminal act was motivated by benevolent purposes.

EXHIBIT E

Section I:

Identifying data

Matrix application

Present crime synopsis

Aggravating and mitigating factors

Conviction chronology & arrest record

Brief Social profile

Criminal history/risk assessment

Section II:

(1) Confidential recommendations

(2) Other confidential data

EXHIBIT F

Aggravation

Less than 6 months
to first difficulty.

Prior difficulty while on
parole or previous
revocation.

Findings at the Morrissey
Hearing of probable cause
to believe new criminal
activity has occurred.

Resistance to parole
supervision, return to
heavy alcohol or drug use,
possession of any weapon.

Mitigation

More than 9 months to
first difficulty.

No prior trouble
while on parole.

No basis to believe criminal
activity had occurred.

Cooperation with parole
plan until new difficulty.
No alcohol or drug abuse.

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

CERTIFICATE

HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Board of Parole

(Agency)

Date of adoption, amendment or repeal:

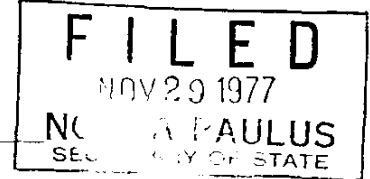
November 29, 1977

By:

Ch. Blalock
(Authorized Signer)

Title:

Chairman



RECEIVED
MAR 17 1993
BOARD OF PAROLE

Effective Date: November 29, 1977 Statutory Authority: ORS Chapter 144

Rule Number(s) 254-30-055

New Rule Amends Repeals Temporary Permanent

Subject matter and purpose of rule: Establishes procedures for Out-of-State Preliminary Hearings

ORDER

The within matter having come before the Board of Parole after publication of the intended action upon not less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. Temp.

Adopted: 254-30-055

Amended: _____

Repealed: _____

as Administrative Rules of the Board of Parole

DATED this 29th day of November, 1977

By:

Ch. Blalock
(Authorized Signer)

Title:

Chairman

Statement of Need
For Temporary Rules

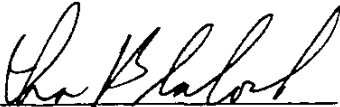
This rule is being adopted to conserve on the Parole Board travel expenses and time incurred in conducting out-of-state hearings, through the option of conducting out-of-state hearings by conference telephone calls.

STATE BOARD OF PAROLE

In the Matter of Board of Parole)	Notice of
Procedural Rules for Out-of-State)	Intent to
Preliminary Hearings)	Adopt Rules

- (1) On November 29, 1977 the State Board of Parole adopted temporary rules in regard to Out-of-State Preliminary Hearings.
- (2) On or before February 1, 1978 the Board of Parole proposes to adopt the temporary rules as permanent rules.
- (3) A completed copy of the Procedural Rules may be obtained by writing to Jane Bailey, Board of Parole, 2575 Center Street N.E., Salem, Oregon 97310.
- (4) If, prior to December 30, ten or more persons make a written request for an oral hearing, the Board of Parole will schedule an oral hearing and publish notice of time, place and date.

Dated November 29, 1977



Ira Blalock, Chairman
State Board of Parole

Out-of-State Preliminary Hearing Procedures

254-30-055 An offender who is in the custody of the Corrections Division who is housed in an out-of-state facility will receive a preliminary hearing in conformance with rules 254-30-055 through 254-30-050. However, the hearing may be conducted by conference telephone call.

FILED		Agency:
NOV 29 1977		Charles B. O.
NORMA PAULUS		SPB 9 (7)
SECRETARY OF STATE		1-29-77 11-29-77
Repeals:		
Statutory Authority:		
Subject:		

*Alphabetical New rule 254-30-255,
established procedure for
cut-off - state preliminary hearings*

COMBINED CERTIFICATE AND ORDER FOR FILING ADMINISTRATIVE
RULES WITH THE SECRETARY OF STATE

CERTIFICATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rules adopted, amended or an order of repeal by:

Board of Parole

(Agency)

Date of adoption, amendment or repeal:

November 29, 1977

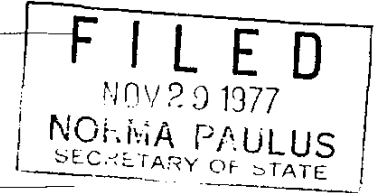
By:

Cha Blalock

(Authorized Signer)

Title:

Chairman



RECEIVED

MAR 17 1993

BOARD OF PAROLE

Effective Date: November 29, 1977 Statutory Authority: ORS 192.410 to 192.500

Rule Number(s) 254-00-005, 254-00-010

New Rule Amends Repeals Temporary Permanent

Subject matter and purpose of rule: Establishes Procedural Rules for the existing Board of Parole rules.

ORDER

The within matter having come before the Board of Parole after publication of the intended action upon not less than 15 days notice in the Secretary of State's Bulletin describing said proposal and advising of the opportunity and manner for the presentation of views or arguments in writing or at a public hearing; the aforesaid notice and other 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Perm. Temp.

Adopted: 254-00-005, 254-00-010

Amended: _____

Repealed: _____

as Administrative Rules of the Board of Parole
(Agency)

DATED this 29th day of November, 1977

By:

Cha Blalock

(Authorized Signer)

Title: Chairman

Statement of Need
For Temporary Rules

The Notice Rule may be required by ORS 183.335 (1) (a), and this submission of the rule will satisfy possible statutory requirements. If not required, the Notice Rule will, nonetheless, provide guidance to the Parole Board regarding adequate notice.

DIVISION 0

PROCEDURAL RULES

Adoption, Amendment, or Repeal of Rules

254-00-005 Prior to the adoption, amendment, or repeal of any rule, the Chairman, Board of Parole shall give notice of the proposed adoption, amendment, or repeal:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least fifteen (15) days prior to the effective date.
- (2) By mailing a copy of the notice to persons on the Board of Parole mailing list established pursuant to ORS 183.335(6).
- (3) By mailing a copy of the notice to the following persons, organizations, or publications:
 - (a) Oregon State Bar Bulletin;
 - (b) United Press International and Associated Press;
 - (c) University of Oregon School of Law;
 - (d) Lewis and Clark College School of Law;
 - (e) Marion-Polk Legal Aid Service;
 - (f) Multnomah County Legal Aid Services;
 - (g) American Civil Liberties Union;
 - (h) Willamette University College of Law.
- (4) By posting on bulletin boards and placing in the general reading section of the libraries of the institutions of the Corrections Division.

Statutory Authority: ORS 183.341

Model Rules of Procedure

254-00-101 Pursuant to the provisions of ORS 183.341, the Board of Parole adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act.

Statutory Authority: ORS 183.341

<p>Filed</p> <p>FILED</p> <p>NOV 29 1977</p> <p>NOEMA PAULUS</p> <p>SECRETARY OF STATE</p>		<p>Agency:</p> <p><i>Paul & G. Jm. #</i></p>
<p>Repeats:</p>	<p>Rule #:</p> <p><i>202 & G. Jm. #</i></p>	<p>Bill #:</p> <p><i>1184-77</i></p>
<p>Statutory Authority:</p>	<p>Bill #:</p> <p><i>1184-77</i></p>	<p>Bill #:</p> <p><i>1184-77</i></p>
<p>Subject:</p>		

Christopher J. Boardman
Paul & Attorney General
Paul & G. Jm. #

066

2178

FILED
FEB 1 1978
NORMA 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 _____
BOARD OF PAROLE on January 17, 1978
(Agency) (Date)
to become effective February 1, 1978
(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:

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

Adopted: 254-30-041, 254-30-042, 254-30-043, 254-30-044
(New Rules)

Temp. Perm.

Amended: _____
(Existing Rules)

Suspended: _____
(Temporary Only)

Repealed: _____
(Existing Rules)

as Administrative Rules of the BOARD OF PAROLE
(Agency)

DATED this 1st day of February, 1978

By: *Norma Paulus*
(Authorized Signer)
Title: Chairman, Board of Parole

Statutory Authority: ORS 192.410 to 192.500; ORS 144.130; ORS 179.505

Subject Matter: The Rule provides for inmate access to certain written materials considered
by the Board of Parole at Board hearings.

Statement of Need Attached: Yes No

For Further Information Contact: Marc Sussman, Board of Parole Phone: 378-2171

STATE BOARD OF PAROLE

In the Matter of the Adoption)
of Rule relating to Inmate)
Access to Written Materials) STATEMENT OF NEED
Considered by the Board of)
Parole.)

The Board of Parole intends to adopt a Rule on Inmate Access to Written Materials considered by the Board at hearings on February 1, 1978, as a permanent rule.

- (a) Legal Authority: ORS 144.130 and 423.060
- (b) Need for Rule: ORS 144.130 requires the Board of Parole and the Corrections Division to jointly adopt rules in regard to inmate access to certain written materials which are considered at Board of Parole hearings with respect to release on parole.
- (c) Documents: There are no source documents. The Rule was negotiated and written in consultation with the Corrections Division.

February 1, 1978
DATE



Chairman, Board of Parole

Rule for Inmate Access to Written Materials Considered at Parole Board Hearings

254-30-041 (1) ORS 192.410 to 192.500 provides for access to public records. ORS 144.130 (House Bill 2013) allows an inmate access to written materials which the State Board of Parole shall consider with respect to his/her release on parole. The Board and the Administrator of Corrections are required to jointly adopt procedures for such inmate access to written materials. ORS 179.505 (House Bill 2723) provides for access to medical, dental, and psychiatric records, except for written accounts of treatment, or where danger to the individual, danger to others, or the security of the institution are involved.

(2) The purpose of this rule is to provide procedures for inmates to have access to certain written materials concerning their hearings before the State Board of Parole.

(3) This rule applies to inmates in the custody of the Corrections Division (or parolees in detention) who appear at hearings held by the State Board of Parole; and, to the written materials considered by the Board at the hearing, with respect to release on parole.

(4) Prior to a hearing on his/her parole status, any person committed to the Corrections Division will have access to the written material which the State Board of Parole shall consider with respect to his/her release on parole, except for information which remains confidential for specified reasons.

Access to Information

254-30-042 (1) In accordance with ORS 192.500(2)(d), inmates will have access to written materials, other than psychiatric or psychological reports, which the State Board of Parole shall consider with respect to the inmate's release on parole, with the following exceptions:

(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) Inmates will have access to psychiatric and psychological reports which are considered by the Board of Parole in a hearing concerned with the release or parole of an inmate, 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 inmate 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.

Access to Information (Continued)

(4) When information is denied, a written statement of the denial, and the reasons for it, must be entered into the inmate's record.

(5) Written materials subject to disclosure, to be considered by the Board, will be sent to the inmate at the same time the material is made available to the State Board of Parole.

254-30-043

(1) The Corrections Division will provide a Parole Analysis Report to the State Board of Parole prior to the inmate's preliminary hearing. This report shall be prepared according to the sectional outline attached (Exhibit E).

(2) The State Board of Parole may consider additional information submitted by the Corrections Division and/or other interested agencies or persons, but if it does so, that information shall be disclosed to the inmate. Any recommendations submitted by the Corrections Division will be sent to the inmate at the same time the material is forwarded to the State Board of Parole.

254-30-044

(1) These rules apply to State Board of Parole hearings on or after October 4, 1977.

(2) Each institution superintendent/release center manager is responsible for developing a procedural statement, approved by the Administrator of Corrections, for implementing this rule within sixty (60) days of its adoption.

EXHIBIT E

Outline for Parole Analysis Report

Section I: (Minimum information required)

Identifying data

Matrix application

Present crime synopsis

Aggravating and mitigating factors

Conviction chronology and arrest record

Brief social profile

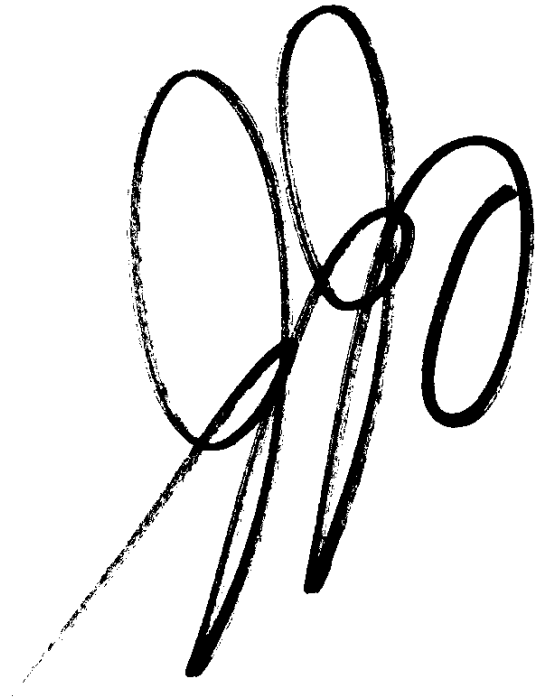
Criminal history/risk assessment

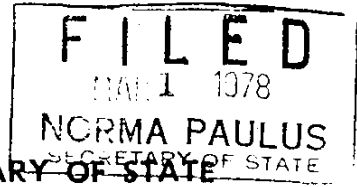
Recommendations

Section II:

Confidential data exempt from disclosure under ORS 192.500(2)(d)

92-1-5





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 _____

State Board of Parole on March 1, 1978
(Agency) (Date)

to become effective March 1, 1978
(Date)

The within matter having come before the State 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted: (New Rules) 254-00-001; 254-00-005; 254-00-010; 254-00-015; 254-00-020;
254-00-025; 254-00-030; 254-00-035; 254-00-040; 254-00-045;
254-00-050; 254-30-055; 254-40-012; 254-70-001; 254-70-042;
254-90-015; 254-90-020; Exhibit F; Exhibit G
Temp. Perm.

Amended: (Existing Rules) 254-10-011; 254-10-016; 254-20-005; 254-20-020; 254-30-005;
254-30-015; 254-30-020; 254-30-025; 254-30-030; 254-30-031;
254-30-032; 254-30-033; 254-30-034; 254-30-035; 254-30-040;
254-30-045; 254-30-050; 254-40-005; 254-40-010; 254-40-012;
Suspended: (Temporary Only) 254-40-015; 254-40-020; 254-40-025; 254-40-030; 254-50-005; (see attachment)

Repealed: (Existing Rules) 254-40-035

as Administrative Rules of the State Board of Parole

DATED this 1st day of March 1978
(Agency)

By: [Signature]
(Authorized Signer)

Title: Chairman, State Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: (See attachment)

Statement of Need Attached: Yes No

For Further Information Contact: Marc Sussman Phone: 378-2171

AMENDED RULES:(Continued)

254-50-010; 254-50-015; 254-50-025; 254-50-030; 254-55-005; 254-55-010;
254-55-015; 254-55-025; 254-60-005; 254-60-010; 254-60-015; 254-60-020;
254-70-005; 254-70-010; 254-70-015; 254-70-020; 254-70-030; 254-70-035;
254-70-040; 254-70-045; 254-80-005; 254-80-010; 254-90-005; 254-90-010;
Exhibit A; Exhibit B; Exhibit C; Exhibit D; Exhibit E.

SUBJECT MATTER:

The adoption of temporary rules establishing procedures for Parole Board rule making; reopening cases; procedures for extensions of parole release dates for institutional misconduct; placement of parolees in Community Correction Centers; disposition of parolees returned with new convictions.

Amendments to rules to clarify and de-sex certain language; defining procedures and guidelines for setting parole release dates at prison term hearings; varying from established guideline ranges for prison terms; resetting parole release dates; administrative reviews; granting or deferring parole release; future disposition hearings for parolees returned with new convictions; administrative appeals; extension of parole termination dates; modifying elements of matrix (i.e., offense severity ratings, history/risk score, and ranges of prison time to be served, plus maximum variations).

The repeal of a rule on reviews of parole hearing dates in excess of 12 years.

STATEMENT OF NEED
FOR TEMPORARY RULES

These rules are being adopted pursuant to legislation passed by the 69th Legislative Session, ORS 144.775 et. seq.

The Board of Parole has acted in response to the recommendations of the Advisory Commission on Prison Terms and Parole Standards and has adopted these rules to structure discretion.

The rules are adopted on an emergency basis because to defer adoption would lead to confusion.

March 1, 1978
DATE


Chairman, Board of Parole

1 DIVISION 00

2 RULE MAKING PROCEDURE

3 Notice of Rule Making

4 254-00-001 Prior to the adoption, amendment, or repeal of any rule,
5 the Chairperson, Board of Parole, shall give notice of the proposed adoption,
6 amendment, or repeal:

7 (1) In the Secretary of State's Bulletin referred to in ORS 183.360
8 at least fifteen days prior to the effective date.

9 (2) By mailing a copy of the notice to persons on the Board of Parole
10 mailing list established pursuant to ORS 183.335(6).

11 (3) By mailing a copy of the notice to the following persons, organi-
12 zations or publications:

13 (a) Oregon State Bar Bulletin

14 (b) United Press International and Associated Press

15 (c) Regional Offices, Parole and Probation, State of Oregon Corrections

16 Division

17 (d) Oregon District Attorneys Association

18 (e) Oregon Criminal Defense Attorneys Association

19 (f) Multnomah County Public Defender

20 (g) Washington County Public Defender

21 (h) Lane County Public Defender

22 (i) Douglas County Public Defender

23 (j) Oregon Prisoners Legal Services Project

24 (k) University of Oregon Law School

25 (l) Lewis & Clark, Northwestern College of Law

26 (m) Willamette University College of Law

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(n) American Civil Liberties Union

(o) Others upon formal written request of the Board of Parole

(4) Or by posting on bulletin boards and placing in the general reading section of the libraries of the institutions of the Corrections Division.

1 Contents of Notice of Rule Making When Public Hearings is Held

2 254-00-005 (1) When the agency gives notice of a public hearing
3 on proposed rule making as required by rule 254-00-001, the notice shall
4 include the following:

5 (a) A description of the agency's proposed action (adoption, amendment
6 or repeal of rule) and where practicable and appropriate setting forth verbatim
7 any rule proposed to be adopted, amended or repealed. (Lengthy rules must
8 be summarized and not set out verbatim.)

9 (b) The subject matter and purpose of the proposed action in sufficient
10 detail to inform a person that his/her interest may be affected.

11 (c) The time and place of the public hearing and the manner in which
12 interested persons may present their views.

13 (d) The address of the main office of the agency where public
14 inspection during regular business hours may be made of the written
15 statement required by ORS 183.335(7).

16 (e) A designation of the officer or governing body of the agency
17 or other person who will preside at and conduct the hearing.

18 (2) If the proposed rule, amendment or repeal thereof is not set forth
19 verbatim in the notice, the notice shall state the time, place and manner in
20 which a copy of the proposed rule or amendment may be obtained.

21
22 Statutory Authority: ORS Chapter 144

1 Contents of Notice of Rule Making When Public Hearing Will be Held Only
2 if Requested

3 254-00-010 (1) When the agency plans to hold a public hearing on
4 proposed rulemaking only if sufficient requests are received, the notice
5 required by rule 254-00-001 shall include the following:

6 (a) A description of the agency's proposed action (adoption, amendment
7 or repeal of rule) and where practicable and appropriate setting forth
8 verbatim any rule proposed to be adopted, amended or repealed. (Lengthy
9 rules must be summarized and not set out verbatim.)

10 (b) The subject matter and purpose of the proposed action in sufficient
11 detail to inform a person that his/her interest may be affected.

12 (c) The time and place at which data or views may be submitted in
13 writing to the agency.

14 (d) The address of the main officer of the agency where public inspec-
15 tion during regular business hours may be made of the written statement
16 required by ORS 183.335(7).

17 (e) A statement that any interested person desiring to express or
18 submit his/her data or views at a public hearing must request the opportunity
19 to do so.

20 (f) A designation and address of the person to whom a request for
21 public hearing must be submitted and the time which the request must be
22 submitted to be considered.

23 (g) A statement that a public hearing will be held if the agency
24 receives a request for public hearing within 15 days after agency notice
25 from 10 or more persons or an association having not less than 10 members.

26 (2) If the proposed rule, amendment or repeal thereof is not set forth

1 verbatim in the notice, the notice shall state the time, place and manner
2 in which the rule or amendment may be obtained.

3 (3) If 10 persons or an association having more than 10 members
4 request a public hearing, the agency shall give notice thereof in conformity
5 with rule 254-00-005.

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7 Statutory Authority: ORS Chapter 144

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1 Submitting Draft of Rule to Legislative Counsel

2 254-00-015 Prior to the adoption or amendment of a rule, including
3 temporary rules adopted under rule 254-00-050, the agency shall submit a draft
4 of the proposed action to Legislative Counsel.

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6 Statutory Authority: ORS Chapter 144

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1 Postponing Intended Action

2 254-00-020 (1) The agency shall postpone its intended action upon
3 request of an interested person received within 15 days after agency notice
4 to allow the requesting person an opportunity to submit data, views or
5 arguments concerning the proposed action.

6 (2) Postponement of the date of intended action shall be no less than
7 10 nor more than 90 days. In determining the length of postponement, the
8 agency shall consider the time necessary to give reasonable notice of the
9 postponement and the complexity of the subject and issues of the intended
10 action.

11 (3) The agency shall give notice of the postponement pursuant to rule
12 254-00-001 except that publication in the Secretary of State's bulletin is
13 only required when the publication date of the bulletin precedes the post-
14 ponement date of the intended action.

15 (4) This rule does not apply to the agency adopting a temporary rule
16 pursuant to ORS 183.335(5) and rule 254-00-050.

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18 Statutory Authority: ORS Chapter 144
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1 Conduct of Hearing

2 254-00-025 (1) The hearing shall be conducted by and shall be under
3 the control of the presiding officer. The presiding officer may be the
4 chief administrative officer of the agency, its governing body or a
5 member thereof or any other person designated by the agency.

6 (2) At the commencement of the hearing, any person wishing to be
7 heard shall advise the presiding officer of his name, address and
8 affiliation. Additional persons may be heard at the discretion of the
9 presiding officer. The presiding officer shall provide an appropriate
10 form for listing witnesses which shall indicate the name of the witness,
11 whether the witness favors or opposes the proposed action, and such other
12 information as the presiding officer may deem appropriate.

13 (3) At the opening of the hearing the presiding officer shall
14 read the content of the notice provided in rule 254-00-005 or rule
15 254-00-010 as the case may be.

16 (4) Subject to the discretion of the presiding officer, the order
17 of the presentation shall be:

18 (a) Statement of proponents.

19 (b) Statement of opponents.

20 (c) Statements of any other witness present and wishing to be heard.

21 (5) The presiding officer or any member of the agency shall have
22 the right to question or examine any witness making a statement at the
23 hearing. The presiding officer may, in his/her discretion, permit other
24 persons to examine witnesses.

25 (6) There shall be no rebuttal or additional statements given by
26 any witness unless requested by the presiding officer. However, when such

1 additional statement is given, the presiding officer shall allow an
2 equal opportunity for reply.

3 (7) The hearing may be continued with recesses as determined by
4 the presiding officer until all listed witnesses present and desiring
5 to make a statement have had an opportunity to do so.

6 (8) The presiding officer shall, where practicable, receive all
7 physical and documentary evidence presented by witnesses. Exhibits shall
8 be marked and shall identify the witness offering the exhibit. The
9 exhibits shall be preserved by the agency for one year or, in the
10 discretion of the agency, returned to the witness offering the exhibit.

11 (9) The presiding officer may set reasonable time limits for oral
12 presentation and may exclude or limit cumulative, repetitious or imma-
13 terial matter.

14 (10) A verbatim oral, written or mechanical record may be made
15 of all the proceedings or, in the alternative, a record in the form of
16 minutes.

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18 Statutory Authority: ORS Chapter 144

1 Presiding Officer's Report

2 254-00-030 Upon request by the agency, the presiding officer shall,
3 within a reasonable time after the hearing, provide the agency with a
4 written summary of statements given and exhibits received and a report of
5 his observations of physical experiments, demonstrations or exhibits.
6 The presiding officer may make recommendations, but such recommendations
7 are not binding upon the agency.

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9 Statutory Authority: ORS Chapter 144

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1 Action of Agency

2 254-00-035 At the conclusion of the hearing, or after receipt of
3 the presiding officer's requested report and recommendation, if any,
4 the agency may adopt, amend or repeal rules covered by the statement
5 of intended action.

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7 Statutory Authority: ORS Chapter 144

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1 Notice of Agency Action; Certification to Secretary of State; Submitting
2 Copy to Legislative Counsel

3 254-00-040 (1) The agency shall file in the office of Secretary
4 of State a certified copy of each rule adopted or amended, or notice
5 of repeal of any rule together with the written statement required by
6 ORS 183.335(7).

7 (2) The agency shall submit a copy of the rule adopted or amended
8 to Legislative Counsel.

9 (3) The rule shall be effective upon filing with the Secretary of
10 State unless a later date is required by statute or is specified in the
11 rule.

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13 Statutory Authority: ORS Chapter 144

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1 Petition to Promulgate, Amend or Repeal Rule: Contents of Petition,

2 Filing of Petition

3 254-00-045 (1) An interested person may petition an agency request-
4 ing the adoption (promulgation), amendment or repeal of a rule. The
5 petition shall be in writing, signed by or on behalf of the petitioner,
6 and shall contain a detailed statement of:

7 (a) The rule petitioner requests the agency to promulgate, amend
8 or repeal. Where amendment of an existing rule is sought, the rule
9 shall be set forth in the petition in full with matter proposed to be
10 deleted therefrom enclosed in brackets and proposed additions thereto
11 shown by underlining or boldface.

12 (b) Ultimate facts in sufficient detail to show the reasons for
13 adoption, amendment or repeal of the rule.

14 (c) All propositions of law to be asserted by petitioner.

15 (d) Sufficient facts to show how petitioner will be affected by
16 adoption, amendment or repeal of the rule.

17 (e) The name and address of petitioner and of any other person
18 known by petitioner to be interested in the rule sought to be adopted,
19 amended or repealed.

20 (2) The petition, either in typewritten or printed form, shall be
21 deemed filed when received by the agency.

22 (3) Upon receipt of the petition, the agency:

23 (a) Shall mail a true copy of the petition together with a copy
24 of the applicable rules of practice to all parties named in the petition.
25 Such petition shall be deemed served on the date of mailing to the last
26 known address of the person being served.

1 (b) Shall advise petitioner that he has 15 days in which to submit
2 written views.

3 (c) May schedule oral presentation of petitioner's views if
4 petitioner makes a request therefor and the agency desires to hear
5 petitioner orally.

6 (d) Shall, within 30 days after date of submission of the petition,
7 either deny the petition or initiate rule making proceedings in accordance
8 with Division 00 of these rules.

9 (4) In the case of a denial of a petition to adopt, amend or repeal
10 a rule, the agency shall issue an order setting forth its reasons in
11 detail for denying the petition. The order shall be mailed to the
12 petitioner and all other persons upon whom a copy of the petition was
13 served.

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15 Statutory Authority: ORS Chapter 144

1 Temporary Rules

2 254-00-050 (1) The agency may proceed without prior notice or
3 hearing, or upon any abbreviated notice and hearing that is practicable,
4 to adopt a rule without the notice otherwise required by ORS chapter 183
5 and Division 00 of these rules. In such case the agency shall:

6 (a) Submit a draft of the rule to Legislative Counsel.

7 (b) Prepare a statement that the rule is necessary for the public
8 interest or the interest of the parties concerned and the reasons therefor.

9 (c) Take appropriate measures to make the temporary rule known to
10 the persons who may be affected.

11 (2) A temporary rule adopted in compliance with this rule becomes
12 effective immediately upon filing the rule with the Secretary of State
13 or at a designated later date. The statement required in (1)(b) must be
14 filed with the rule.

15 (3) Within 30 days following the adoption of a temporary rule
16 prepare the statement required by ORS 183.335(7) and file the statement
17 with the Secretary of State.

18 (4) The statement required by ORS 183.335(7), including the full
19 text of any material cited in the statement, shall be available for
20 public inspection during regular business hours at the main office of
21 the agency.

22 (5) A rule temporarily suspended shall regain effectiveness upon
23 expiration of the temporary period of suspension unless the rule is
24 repealed prior to the expiration of the temporary period.

25 (6) A temporary rule may be effective for no longer than 120 days.
26 No temporary rule may be renewed after it has been in effect 120 days. The

1 agency may, however, adopt an identical rule on notice in accordance
2 with Division 00 of these rules.

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4 Statutory Authority: ORS Chapter 144

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DIVISION 10
ORGANIZATION

Membership

254-10-006 The State Board of Parole shall consist of six persons:

Five voting members are appointed by the Governor. The Administrator of the Corrections Division who shall have no vote acts as advisor and liaison.

Statutory Authority: ORS Chapter 144

1 Chairperson [Chairman]

2 254-10-011 The chairperson [chairman] shall be a voting member of
3 the Board selected by a majority vote. The chairperson [chairman] shall [will]
4 have a minimum term of one year and may be removed prior to the end of his/her
5 term by a unanimous vote of the voting Board members.

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7 Statutory Authority: ORS Chapter 144

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1 Chairperson [Chairman]: Powers and duties

2 254-10-016 The chairperson [chairman] shall have the powers and duties
3 established by law and rules necessary for the performance of the office and
4 administration of the Board including:

5 (1) assign voting Board members to panels and appoint panel chairpersons
6 [chairmen],

7 (2) apportion matters to the panels and full Board for decision,

8 (3) reassign matters to different panels when required by law or
9 procedure,

10 (4) schedule business meetings and develop the agenda,

11 (5) inform the sentencing judge, district attorney, sheriff or arresting
12 agency of the prospective release of each offender and the conditions thereof,

13 (6) review administrative appeals,

14 (7) designate members to conduct hearings and reviews,

15 (8) appoint assistants for offenders when appropriate.

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17 Statutory Authority: ORS Chapter 144

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DIVISION 20

BUSINESS MEETINGS

Scheduling

254-20-005 Business meetings shall [will] be held as scheduled by the chairperson [chairman] or upon the request of at least two members.

Statutory Authority: ORS Chapter 144

1 Quorum

2 254-20-010 A business meeting requires at least three of the
3 voting members of the Board.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-20-015 The business meeting shall [will] consider matters relating
3 to Board policy and administration raised by the agenda presented by the
4 chairperson [chairman] or by Board members.

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6 Statutory Authority: ORS Chapter 144

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1 Decision

2 254-20-020 Three votes are required to make a Board decision at a
3 business meeting.

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5 Statutory Authority: ORS Chapter 144

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DIVISION 30

PRISON TERM HEARINGS [PRELIMINARY HEARINGS]

Scheduling

254-30-005 Every prisoner [offender] initially incarcerated at any institution of the Corrections Division shall [will] be scheduled for a hearing within six months of admission.

(1) A prisoner incarcerated at any institution of the Corrections Division with a sentence of up to 12 months shall be scheduled for a hearing within 2 months of admission or as soon thereafter as practicable.

(2) A prisoner with a sentence of 12 to 36 months shall be scheduled for a hearing within 3 months of admission or as soon thereafter as practicable.

(3) A prisoner with a sentence of over 36 months shall be scheduled for a hearing within 4 months of admission or as soon thereafter as practicable.

(4) In no case shall a prisoner be scheduled for a hearing more than 6 months after admission.

Statutory Authority: ORS Chapter 144

1 Panel Size

2 254-30-010 A hearing panel shall consist of two or more voting
3 members of the Board.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-30-015 The panel may set a parole release [hearing] date [or deny
3 parole]. Prior to making a decision, the panel may continue the hearing
4 for a reasonable period of time, if necessary, to obtain additional informa-
5 tion. Such period of time may not exceed thirty days after the expiration
6 of six months from admission.

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8 Statutory Authority: ORS Chapter 144

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1 Decisions

2 254-30-020 The decision of a panel of two or three members must
3 be unanimous. In the absence of a unanimous decision, each panel member shall
4 [will] forward his/her recommendation to the chairperson [Board, and the matter
5 will be referred to the chairman] for reassignment. No matter so reassigned
6 shall be decided by fewer than three affirmative votes. This may be done
7 by another two-member panel reaching a unanimous decision in agreement with
8 a member of the prior panel. The decision becomes the decision of the Board
9 unless subject to full Board review pursuant to rule 254-40-025.

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11 Statutory Authority: ORS Chapter 144

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1 Appearance

2 254-30-025 No person, other than the offender, shall appear in
3 the offender's behalf unless the offender is incapable of presenting
4 his/her position due to language barriers or lack of mental capacity.
5 Assistance shall [will] be provided to offenders meeting this criteria
6 by persons recommended by the institution superintendent and appointed
7 by the chairperson [chairman] of the Board.

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9 Statutory Authority: ORS Chapter 144

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1 Offense Severity

2 254-30-030 (1) The Board shall [will] use the table in Exhibit A
3 to assess the seriousness of the offense and, subject to the exceptions
4 therein, shall [will] assign a severity rating from one to seven as set
5 forth in Exhibit A.

6 (2) Exceptions:

7 [(a) Any time a firearm is discharged or a person is seriously injured
8 by whatever means during commission of a felony, the offender will be
9 assigned a rating of not less than six.]

10 (a) [(b)] Multiple convictions with concurrent sentences shall [will]
11 be classified according to the crime bearing the highest rating.

12 (b) [(c)] Attempt (ORS 161.405) and Solicitation (ORS 161.435) [and
13 Conspiracy (ORS 161.450)] shall [will] be assigned a rating one category
14 less than the criminal activity intended; but Conspiracy shall be treated
15 as of the same severity as the actual crime.

16 (c) [(d)] Crimes not listed shall [will] be rated by comparison to
17 crimes listed on the table.

18 (d) When a prisoner is serving two or more consecutive sentences, the
19 term of imprisonment shall be the sum of the established ranges set forth
20 in Exhibit C under ORS 144.783(2).

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22 Statutory Authority: ORS Chapter 144

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1 Criminal History/Risk Assessment

2 254-30-031 The Board shall [will] use the table in Exhibit B to make a
3 criminal history/risk assessment and shall [will] assign a score from Zero to
4 11 as set forth in Exhibit B.

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6 Statutory Authority: ORS Chapter 144

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1 Parole Release [Hearing] Date [Set]

2 254-30-032 (1) The Board shall [will] set a parole release [hearing]
3 date within the parameters of the matrix in Exhibit C unless it finds aggra-
4 vation or mitigation under rule 254-30-033, or the statutory good time date
5 on the sentence imposed [sentence length] is shorter than the matrix range
6 [bracket]. In the latter case, the parole release date set shall be set at
7 six months less than the statutory good time date on a sentence of up to three
8 years; at nine months less than the statutory good time date on a sentence
9 between three and six years; and at twelve months less than any sentence
10 exceeding six years, unless the Board makes a finding pursuant to (2) of
11 this section. [In the latter case, the parole hearing date set will be
12 considered within the guidelines if the parole hearing date is set within
13 nine months of the statutory good time date.]

14 (2) The Board may choose not to set a parole release date (i.e., the
15 prisoner shall serve to the end of his/her sentence pursuant to ORS 421.120)
16 when the offense of commitment included particularly violent or otherwise
17 dangerous criminal conduct as defined by (a) of this section, or whose offense
18 was preceded by two or more convictions of a class A or class B felony or
19 whose record includes a psychiatric or psychological diagnosis of severe
20 emotional disturbance.

21 (a) Particularly violent or otherwise dangerous criminal conduct is
22 conduct which is not merely unpleasant or offensive, but exceeds aggravation
23 listed in rule 254-30-033 (1) (b). This is conduct of a type which manifests
24 indifference to the value of human safety or property (e.g., actions which
25 terrorize or inflict serious mental distress on a victim, as the rapist
26

1 who telephones the victim and threatens to repeat the crime; unusual or
2 protracted cruelty; multiple victims in a single or separate incident;
3 extremely high harm-loss, as the burglar who takes a stereo and proceeds
4 to destroy a large number of items left in the house with an axe; infliction
5 of serious physical injury, if not an element of the crime).

6 (b) When the Board chooses not to set a parole release date, it shall
7 clearly state on the record the facts and specific reasons for that decision.

8 (3) When the Board has set the parole release date for a prisoner, it
9 shall inform the sentencing court, the district attorney and, upon request,
10 the prisoner's counsel.

11 (4) The Board shall not set a parole release date for a dangerous
12 offender sentenced under ORS 161.725 and 161.735 if the record includes a
13 psychiatric or psychological diagnosis of a present severe emotional dis-
14 turbance (e.g., severe personality disorder). The Board shall set a date
15 for a parole consideration hearing under the matrix guidelines in Exhibit C
16 and provisions for variations under rule 254-30-033.

17 (a) At this hearing, the Board shall not set a parole release date
18 unless the psychiatric or psychological report and the report of the
19 Correctional Institution executive officer, pursuant to ORS 144.228, reveal
20 that the severe emotional disturbance which has made the prisoner dangerous
21 is no longer present.

22 (b) If the disturbance is present, the Board may defer release to a
23 specified future time or refuse to set a release date under rule 254-30-050(6).

24 (c) Reviews shall be given dangerous offenders pursuant to rule 254-40-005
25 (1)(a). If, at the review, the psychiatric or psychological reports and the
26 executive officer's report reveal that the severe emotional disturbance which

1 has made the prisoner dangerous is no longer present, the Board shall review
2 the matter pursuant to rule 254-40-005 and set a parole release date according
3 to (1) of this rule and rule 254-30-033.

4 (5) For offense severity rating 7 offenses where the parole hearing
5 date was established prior to the implementation of these rules, the Board
6 may reset those parole hearing dates to the following minimum times to be
7 served:

8 Criminal History/Risk Assessment Score

9 <u>11-9</u>	<u>8-6</u>	<u>5-3</u>	<u>2-0</u>
10 <u>8 years</u>	<u>10 years</u>	<u>12 years</u>	<u>12 years</u>

11 (6) In determining the parole release date for a person convicted of
12 Escape, time on escape shall be inoperable. The time from the prisoner's
13 escape until the original parole release date shall be served in addition
14 to the appropriate range for the new offense.

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16 Statutory Authority: ORS Chapter 144
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1 Variations from the Ranges [Aggravation/Mitigation]

2 254-30-033 (1) The Board may depart from the parameters of the matrix
3 only upon making a specific finding that there is, by a preponderance of
4 the evidence, aggravation or mitigation which justifies departure from the
5 ranges. [written findings of aggravation or mitigation. Such findings
6 will be based on objective information satisfactory to the Board and under-
7 stood by the offender which leads to reasonable conclusions.] The Board
8 shall clearly state on the record the facts and specific reasons for
9 variation from the range.

10 (a) Information considered by the Board in determining whether aggravation
11 or mitigation exists shall be disclosed prior to the hearing, pursuant to
12 rule 254-30-042 and 254-30-043 to permit the prisoner an opportunity to respond
13 before the Board finds aggravation or mitigation.

14 (b) Usual, but not exclusive factors in aggravation or mitigation are
15 shown in Exhibit E [D]. The Board may consider circumstances not listed in
16 Exhibit E; however, such circumstances must be of a type which relate to
17 either the severity of the prisoner's offense, or the prisoner's criminal
18 history.

19 (c) Maximum upward or downward variations from a range permitted to
20 a panel are shown in Exhibit D.

21 (2) Where a panel, based upon its findings pursuant to (1) of this
22 section, is of the opinion that the aggravating or mitigating circumstances
23 are so substantial that a greater departure from the guideline range is
24 required than is indicated in Exhibit D, it shall refer the matter to the
25 full Board for consideration.

26 (a) The sole issue the full Board shall consider is whether the

1 aggravating or mitigating circumstances found by the panel are of such
2 consequence as to require departure from the applicable maximum variations
3 in Exhibit D.

4 (b) The Board shall clearly state on the record the facts and specific
5 reasons why the normal variation is insufficient.

6 (c) Affirmative votes of at least four members of the Board shall be
7 required to exceed the maximum variations in Exhibit D.

8 (3) If any of the aggravating or mitigating circumstances listed in
9 Exhibit E shall also constitute a defining element of the crime or subcategory
10 of the crime of which the prisoner was convicted, then such circumstance shall
11 not justify variation from the matrix.

12 (4) Plea Bargained Sentences: If the prisoner has pleaded guilty to
13 the crime or crimes of which he was convicted and more serious or other charges
14 have been dismissed, or other crimes have not been charged, then the Board
15 may deem it an aggravating or mitigating circumstance, allowing a variation
16 from the matrix pursuant to rule 254-30-033(1), if the Court has found, or
17 the Board finds, by a preponderance of the evidence, that the defendant's
18 actual criminal conduct was of a different degree of seriousness than the
19 crime of which he/she was convicted. In determining whether the conduct was
20 of a different degree of seriousness, the Board shall consult the rankings
21 of seriousness of crimes set forth in Exhibit A. In such cases, the Board
22 shall state the actual criminal conduct on the record.

23 (5) Sentence as Aggravating or Mitigation: The Board shall deem the
24 sentence an aggravating or mitigating circumstances, which allows a variation
25 from the matrix pursuant to rule 254-30-033, if the Board finds, by a preponderance
26 of the evidence, that such sentence and the reasons for the sentence stated on

1 the record by the sentencing judge pursuant to ORS 173.120(2) disclose:

2 (a) the presence of any aggravating or mitigating circumstances described
3 in subsections (3) or (4) above or Exhibit F;

4 (b) other reasons showing enhanced or reduced harm or risk of harm
5 involved in the criminal conduct, or enhanced or reduced culpability on the
6 part of the prisoner when committing such conduct.

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8 Statutory Authority: ORS Chapter 144

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1 Judicial Sentences [Recommendations]

2 254-30-034 When a judge imposes a minimum term of imprisonment upon
3 a prisoner pursuant to ORS 144.110(1), the Board shall not release the
4 prisoner before the minimum has been served except upon affirmative votes
5 of at least 4 members of the Board.

6 [The sentencing judge may make recommendations outside guideline
7 ranges. Such recommendations and the supporting reasons shall be sent to
8 the chairman, made a confidential part of the record, and considered at the
9 preliminary hearing.]

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11 Statutory Authority: ORS Chapter 144

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1 Other Recommendations

2 254-30-035 Recommendations from police, District Attorneys, defense
3 attorneys, and other interested persons and agencies shall be considered
4 at the preliminary hearing [and be made a part of the confidential record].

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1 Notice

2 254-30-040 (1) The prisoner [offender] shall [will] be notified in
3 writing of his/her hearing and its purpose within a reasonable time before
4 the hearing is conducted.

5 (2) The prisoner [offender] shall [will] be notified in writing of his/her
6 parole release [hearing] date and reasons for the date [set] if it is outside
7 the established matrix.

8 (3) The prisoner [offender] shall [will] be notified in writing if
9 his/her established parole release [hearing] date is scheduled for recon-
10 sideration pursuant to rule 254-30-050.

11 (4) The prisoner [offender] shall [will] be given a written statement
12 of reasons if his/her established parole release [hearing] date is reset
13 under rule 254-30-050.

14 (5) The prisoner [offender] shall [will] be given written notice of
15 his/her right to administrative appeal of the decision under rules 254-80-005
16 and 254-80-010.

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18 Statutory Authority: ORS Chapter 144

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1 Record

2 254-30-045 A record of the [preliminary] hearing and any and all
3 hearings pursuant to rule 254-30-050 shall [will] be kept by the Board for
4 at least two years. The record shall [will] contain:

5 (1) documents considered by the Board at the hearing;

6 (a) The chairperson of the panel shall initial and date such documents
7 in the Corrections Division files or which have been specially submitted
8 for the hearing and have been considered by the Board.

9 (b) Documents considered are subject to the provisions of rules
10 254-30-042 and 254-30-043. Documents considered but not disclosed under
11 these sections shall also be specifically noted as undisclosed.

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

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17 Statutory Authority: ORS Chapter 144

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1 Parole Release [Hearing] Date Resets

2 254-30-050 (1) An established parole release [hearing] date may be
3 reset to an earlier time upon recommendation of institution superintendent,
4 Chief of Field Services, or a Board member, and after the concurrence of a
5 voting majority of the Board. The provisions of rule 254-30-033 governing
6 downward variation shall apply to the majority's action.

7 (2) An established parole release [hearing] date may be reset to a
8 later date upon recommendation of an institution superintendent or a Board
9 member, and after the concurrence of a quorum of the Board, but only after
10 the prisoner [offender] has had an opportunity to appear pursuant to rule
11 254-30-005, et. seq. A prisoner [offender] may waive his/her right to
12 appear in writing or by voluntary absence from the institution.

13 [(3) No established parole hearing date may be reset without a written
14 statement of reasons.]

15 (3) When the Board is notified by the Administrator of the Corrections
16 Division that an extension of a prisoner's parole release date has been
17 recommended pursuant to the joint Parole Board and Corrections Division
18 rule on "Extension of Parole Release Dates," rule 254-30-055, it shall
19 conduct a hearing to determine whether the misconduct was serious. The
20 prisoner shall have the right to appear accorded in rule 254-30-005 et. seq.
21 (i.e., same procedures shall be followed).

22 (a) Serious misconduct is misconduct which the Board classifies within
23 one of the four categories listed in the joint Parole Board and Corrections
24 Division rule on "Extension of Parole Release Dates," rule 254-30-055.

1 (b) A prisoner may not relitigate facts which he/she has had a full
2 opportunity to contest and have been decided against him/her in other
3 forums.

4 (c) If the Parole Board does not find that all other disciplinary
5 options are inadequate to the seriousness of the misconduct, considering
6 the following factors: (1) effectiveness of the sanction as a disciplinary
7 measure, both to the inmate and to the general institution population,
8 (2) degree of hazard posed by the misconduct to human health and/or life,
9 institution security, or to property, (3) seriousness of the misconduct
10 had it been committed in the wider community, (4) circumstances of the mis-
11 conduct, and (5) the inmate's prior record of conduct, the Board may request
12 the prisoner be given another hearing before the institution disciplinary
13 committee originating the recommendation for reset, or choose not to reset the
14 parole release date.

15 (d) The Board shall clearly state on the record facts and specific
16 reasons for its decision.

17 (4) The Board may continue the parole hearing and order a psychiatric
18 examination when it appears that a severe emotional disturbance is present.
19 If there is a psychiatric or psychological diagnosis of present severe
20 emotional disturbance, the Board may defer release to a specified future
21 date or refuse to set a release date. In choosing not to set a parole release
22 date, rule 254-30-032 shall control.

23 (5) The Board shall clearly state on the record the facts and specific
24 reasons for the reset.

25 (6) The Board may suspend imposition of an extended parole release date upon
26 recommendation of an institution Disciplinary Committee.

1 Extension of Parole Release Dates

2 254-30-055 The procedures for recommendation of an extension of a
3 parole release date for serious institutional misconduct shall be as
4 follows:

5 (1) The institution Disciplinary Committee may recommend an extension
6 of an inmate's parole release date as a disciplinary sanction.

7 (2) Recommendation to extend a parole release date shall be made
8 according to the following guidelines:

9 (a) The inmate must be given an opportunity for a disciplinary
10 hearing and have been found to have violated an adopted rule governing
11 conduct.

12 (b) In no instance shall an extension of a parole release date be
13 recommended unless all other disciplinary options have been specifically
14 considered by the committee and deemed to be, individually and in combination,
15 inadequate to the seriousness of the misconduct in terms of the following
16 factors:

17 (i) effectiveness of the sanction as a disciplinary measure, both
18 to the inmate and to the general institution population;

19 (ii) Degree of hazard posed by the misconduct to human health and/or
20 life, institution security, or to property;

21 (iii) seriousness of the misconduct had it been committed in the
22 wider community;

23 (iv) circumstances of the misconduct; and,

24 (v) the inmate's prior record of conduct.

5 (3) A parole release date shall not be extended unless the misconduct
26 can be classified within one of the four following categories and then,

1 extension must be within the range set for the category of misconduct,
2 unless the Parole Board finds aggravation or mitigation based on those
3 factors listed in Exhibit D of rule 254-30-033.

4 If a basis for aggravation or mitigation is found by the Parole Board,
5 the maximum variation allowed would be 25% of the sanction recommended.
6 Any greater variation than 25% will require 4 of 5 Board members to register
7 a concurring vote to exceed the 25%.

	<u>AMOUNT OF TIME</u>	
<u>CATEGORY</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
10 (a) <u>Hazard to Human Life/ 11 <u>Health</u></u>	12 <u>50% of the time an inmate was 13 <u>to serve from the time an</u> 14 <u>original parole release date</u> 15 <u>was set to the parole</u> 16 <u>release date.</u></u>	17 <u>100% of the time an in-</u> 18 <u>mate was to serve from</u> 19 <u>the time an original</u> 20 <u>parole release date was</u> 21 <u>set to the parole releas</u> 22 <u>date. In no instance</u> 23 <u>may the extension</u> 24 <u>exceed five years.</u>
15 (b) <u>Hazard to Security</u>	16 <u>25% of the time an inmate was</u> 17 <u>to serve from the time an</u> 18 <u>original parole release date</u> 19 <u>was set to the parole release</u> 20 <u>date.</u>	21 <u>50% of the time an in-</u> 22 <u>mate was to serve from</u> 23 <u>the time an original</u> 24 <u>parole release date was</u> 25 <u>set to the parole re-</u> 26 <u>lease date. In no</u> <u>instance may the</u> <u>extension exceed 2 years</u>
19 (c) <u>Hazard to Property</u>	20 <u>10% of the time an inmate was</u> 21 <u>to serve from the time an</u> 22 <u>original parole release date</u> 23 <u>was set to the parole release</u> 24 <u>date.</u>	25 <u>25% of the time an in-</u> 26 <u>mate was to serve from</u> <u>the time an original</u> <u>parole release date was</u> <u>set to the parole releas</u> <u>date. In no instance</u> <u>may the extension</u> <u>exceed 1 year.</u>
23 (d) <u>Third in a series of</u> 24 <u>rule violations with-</u> 25 <u>in a three-month</u> 26 <u>period, while assigned</u> <u>to any Corrections</u> <u>Division program.</u>	<u>5% of the time an inmate was</u> <u>to serve from the time an</u> <u>original parole release date</u> <u>was set to the parole release</u> <u>date.</u>	<u>10% of the time an in-</u> <u>mate was to serve from</u> <u>the time an original</u> <u>parole release date was</u> <u>set to the parole</u> <u>release date. In no</u> <u>instance may the</u> <u>extension exceed 1 year.</u>

1 (4) When the amount of time recommended for the parole release date
2 extension exceeds the inmate's sentence or statutory good time date, the
3 effect is to deny the possibility of parole. An extension in the parole
4 release date may not be beyond the inmate's maximum statutory release date.

5 (5) If serious misconduct occurs prior to the establishment of an
6 inmate's parole release date, and an extension to the parole release date would
7 be otherwise justified, the misconduct will be considered as aggravating
8 circumstances when the Board of Parole sets the release date. The super-
9 intendent is responsible for insuring delivery of this information, in a
10 timely manner, to the Chief of Release Services.

11 (6) If serious misconduct occurs after a parole has been ordered, and
12 an extension to the parole release date would be otherwise justified, the
13 misconduct will be immediately reported by the institution superintendent
14 responsible for ensuring that the Chairperson of the Board of Parole is
15 immediately notified of the misconduct, so that the Chairperson of the
16 Board of Parole can take immediate steps to cancel the parole order and
17 make arrangements for reestablishing the parole release date.

18 (7) The Disciplinary Committee may recommend that the imposition of the
19 sanction extending a parole release date be suspended subject to a period
20 of acceptable conduct in accordance with the Corrections Division rules
21 governing conduct.

22 (8) Before an extension of a parole release date is effective, the
23 Disciplinary Committee recommendation must be approved by the superintendent
24 of the institution, the Administrator of the Corrections Division, or his
5 designee, and the State Board of Parole under rule 254-30-050.

26 Statutory Authority: ORS Chapter 144

1 DIVISION 40

2 REVIEWS

3 Periodic [Statutory] Reviews

4 254-40-005 [In cases where the Board establishes a parole hearing
5 date more than two years from the date of the current hearing, it shall
6 also establish review dates every two years or less.]

7 (1) Reviews shall be conducted after four years have elapsed since the
8 first Board hearing and every three years thereafter.

9 (a) Dangerous offenders sentenced under ORS 161.725 and 161.735 shall
10 be seen every two years as required by statute.

11 (b) Aggravated murderers sentenced under ORS 163.095 shall be seen
12 as required by statute.

13 (2) Reviews that have been scheduled prior to January 26, 1977, the
14 effective date of the rules, shall be conducted as scheduled. Reviews
15 scheduled subsequent to January 26, 1977 shall be rescheduled to comply with
16 this rule.

17 Statutory Authority: ORS Chapter 144

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1 Purpose

2 254-40-010 Reviews pursuant to rule 254-40-005 shall be conducted
3 to determine if anything exceptional has occurred or if there are additional
4 facts that were not known or could not be contemplated at the time of the
5 Prison Term hearing that would justify reconsideration of a parole release
6 date.

7 [The purpose of this review will be to determine whether modification of
8 the parole hearing date is appropriate under rule 254-30-050.]

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10 Statutory Authority: ORS Chapter 144

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1 Reopening Cases

2 254-40-012 The Board may reopen any case for reconsideration upon
3 formal written request of a prisoner or motion of a Board member if:

4 (1) Substantial new information which was unknown at the time of
5 the prison term hearing or could not be contemplated at that time has
6 been received; or

7 (2) Substantial information that a prisoner, or any other person,
8 willfully concealed or misrepresented information material to a prior Board
9 action has been received.

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11 Statutory Authority: ORS Chapter 144

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1 Interview

2 254-40-015 An interview shall [will] be conducted by one or more
3 voting members of the Board. In the event an interviewer determines that
4 modification of the parole hearing date is appropriate, the matter shall
5 [will] be referred to the full Board for review. No action shall be taken
6 in all other cases.

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8 Statutory Authority: ORS Chapter 144

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1 Appearance

2 254-40-020 (1) No person, other than the offender, shall appear in
3 the offender's behalf unless the offender is incapable of presenting his
4 position due to illiteracy, language barriers or lack of mental capacity.
5 Assistance will be provided to offenders meeting these criteria by persons
6 recommended by the institution superintendent and appointed by the chairperson
7 [chairman] of the Board.

8 (2) The prisoner [offender] may waive the personal appearance in
9 writing or by voluntary absence from the institution.

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11 Statutory Authority: ORS Chapter 144

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1 Full Board Review

2 254-40-025 (1) Whenever a panel conducts a hearing affecting a[n]
3 prisoner [offender] sentenced to life imprisonment, convicted of a crime
4 involving the death of a victim, whether or not the prosecution directly
5 charged the prisoner [offender] with causing the death of the victim, [and/or]
6 sentenced under ORS 161.725 and 161.735 as a dangerous offender, the decision
7 shall [will] be made by the full membership of the Board.

8 (2) Whenever a single member makes a recommendation affecting a[n]
9 prisoner [offender], the recommendation shall [will] be reviewed by the
10 full Board and decided by a majority vote of the Board.

11 (3) Whenever a minimum sentence imposed by a judge pursuant to
12 ORS 144.110 (1) exceeds the applicable matrix guideline range in Exhibit C
13 plus the maximum variation from the range shown in Exhibit D, the case shall
14 be reviewed by the full membership of the Board at or following the hearing.
15 This rule shall apply to all sentences imposed after October 4, 1977.

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Statutory Authority: ORS Chapter 144

1 Method

2 254-40-030 (1) Full Board reviews shall [will] be accomplished by the
3 Board without the presence of the prisoner [offender]:

4 (a) by circulating the prisoner's [offender's] record and a copy of
5 the member or panel's proposed action for individual members' comments and
6 votes, or

7 (b) by consideration at a business meeting providing all voting members
8 are present.

9 (2) Notwithstanding subsection (1), a prison term [preliminary] hearing
10 or a parole release hearing conducted by all five voting members of the Board
11 shall [will] satisfy the requirements of this section.

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13 Statutory Authority: ORS Chapter 144

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1 [Reviews of Parole Hearing Dates in Excess of 12 Years]

2 [254-40-035 In addition to the foregoing review procedures, an
3 offender who is (1) convicted of a crime involving the death of the
4 victim, whether or not the prosecution directly charged the person with
5 causing the death of the victim, (2) sentenced to life imprisonment, and/or
6 (3) sentenced under ORS 161.725 and 161.735 as a dangerous offender, and
7 who has a parole hearing date in excess of twelve years from his preliminary
8 hearing date, may request and will be granted a full Board hearing at his
9 next biennial review if he has served one-third and two-thirds, respectively,
10 of the period of incarceration set by the Board at the preliminary hearing
11 to determine whether modification of the parole hearing date is appropriate
12 under rule 254-30-050. Rules 254-40-015 and 254-40-025 are suspended for
13 the purpose of this type review.]

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DIVISION 50

PAROLE RELEASE [HEARINGS]

Parole Release Interviews [Consideration Hearings]

254-50-005 A[n] prisoner [offender] committed to the custody of the Corrections Division and incarcerated shall [will] be interviewed [given a hearing] to determine whether parole release will be granted on the date set [for a parole hearing by the Board] under rule 254-30-005 et. seq.

Statutory Authority: ORS Chapter 144

1 Conduct of Hearing [Panel]

2 254-50-010 Interviews [Parole hearings] shall [will] be conducted
3 by [panels of two] one or more voting members.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-50-015 [The panel may order parole, set a new parole hearing
3 date, deny parole, or continue the hearing for a reasonable period of time.]

4 (1) During the interview the Board shall examine the prisoner's
5 parole plan, his psychological report, if any, and the record of his
6 conduct during confinement.

7 (2) Following an interview, a postponement of up to 90 days may be
8 ordered by a panel of the Board if it finds that the parole plan is
9 inadequate under rule 254-50-025.

10 (3) If a psychiatric or psychological diagnosis of present severe
11 emotional disturbance has been made with respect to the offender, a panel
12 may order a postponement of the scheduled release until a specified later
13 date or until the prisoner or institution presents evidence that the emotional
14 disturbance is over or in remission.

15 (4) If the prisoner has engaged in serious institutional misconduct
16 and the Board finds that a reset is in order, the period of postponement
17 shall be determined by reference to rule 254-30-050(5). Prior to any post-
18 ponement under (3) or (4) of this rule, the prisoner shall be provided a
19 hearing before at least two members of the Board. The prisoner shall have
20 the rights accorded in rule 254-30-025 et. seq.

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22 Statutory Authority: ORS Chapter 144

1 Instate Parole Release Interview [Parole Hearing] Procedures

2 254-50-025 (1) Notice: At a reasonable time prior to a parole
3 release interview [hearing], the prisoner [offender] shall [will] be
4 notified at his/her place of confinement of the scheduled parole release
5 interview [hearing], and shall [will] advise the prisoner [offender] that
6 information may be provided to the Board in writing or by persons sending
7 written information to the Board.

8 (2) Disclosure of information considered by the Board shall be
9 governed by rules 254-30-042 and 254-30-043.

10 (3) Appearance: No person, other than the offender, shall appear
11 in the offender's behalf unless the offender is incapable of presenting
12 his/her position due to language barriers or lack of mental capacity. Assis-
13 tance will be provided to offenders meeting this criteria by persons recom-
14 mended by the superintendent and appointed by the chairperson [chairman]
15 of the Board.

16 (4) [(3)] Record: A record of any and all parole release interviews
17 [hearings] shall [will] be kept by the Board for at least two years. The
18 record shall [will] contain:

19 (a) documents considered by the Board at the interview [hearing];

20 (i) The chairperson of the panel or interviewer shall initial and date
21 such documents in the Corrections Division files or which have been specially
22 submitted for the hearing and have been considered by the Board.

23 (ii) Documents considered are subject to the provisions of rules
24 254-30-042 and 254-30-043. Documents considered but not disclosed under
25 these sections shall also be specifically noted as undisclosed.

26 (b) a record of the oral proceedings of the interview [hearing] with

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

4 (c) The Board shall examine the prisoner's plans for residence,
5 employment or other situation in the community prior to approving release.
6 An acceptable plan generally includes employment, school or other situation
7 and suitable residence; it may require treatment programs and prescribed
8 medication. If any portion of the plan is inadequate, the Board shall
9 specify the ways in which the plan is deficient and order deferral of the
10 prisoner's parole release. The Board may order release to a plan approved
11 by the Corrections Division or require resubmission of a verified plan to
12 the Board after 30 days. Total deferral shall not exceed 90 days from the
13 initial parole release date.

14 (d) The Board shall clearly state the facts and specific reasons for
15 its decision.

16 [(4) Notice of Order: After deliberation, the Board may notify the
17 offender orally of its decision at the parole hearing. The Board will provide
18 the offender with written notice of the decision within a reasonable time. The
19 oral notification may and the written notification will advise the offender of
20 the reason(s) for the decision, his right to administrative appeal under rule
21 254-80-005 and to judicial review under ORS 144.335.]

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23 Statutory Authority: ORS Chapter 144
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1 Out-of-State Parole Release Interview [Hearing] Procedures

2 254-50-030 An offender who is in the custody of the Corrections Division
3 who is housed in an out-of-state facility shall [will] receive a parole
4 release interview [hearing] in conformance with rule 254-50-025. [However,
5 the hearing may be conducted by conference telephone call.]

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7 Statutory Authority: ORS Chapter 144

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DIVISION 55

ORS 144.050

PAROLE CONSIDERATION HEARINGS

ORS 144.050 Parole Consideration Hearings

254-55-005 An offender confined in a jail facility as defined in ORS 144.050 for a period of six months or longer shall [will] be given a hearing upon the offender's written application, except that no such person shall [will] be considered for parole until four months of the sentence have been served.

Statutory Authority: ORS Chapter 144

1 Panel

2 254-55-010 Parole hearings shall [will] be conducted by one voting
3 member.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-55-015 The member may order parole, set a new parole release
3 [hearing] date, or continue the hearing for a reasonable period of time.

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5 Statutory Authority: ORS Chapter 144

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1 Parole Hearing Procedure

2 254-55-025 The parole hearing shall [will] be conducted in conformance
3 to rule 254-50-025 [except that any assistant provided to the offender will
4 be recommended by the chief custodian of the jail facility and appointed by
5 the chairman of the Board].

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7 Statutory Authority: ORS Chapter 144

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DIVISION 60

PAROLE RESCISSION

Procedure

254-60-005 The Board may rescind a parole after it has been ordered but prior to release from custody by conducting a rehearing consistent with rules 254-50-025 or 254-50-030, upon recommendation of an institution superintendent, Chief of Field Services, or a Board member, and with the concurrence of three voting members. All parties will be given the written reasons for the action taken.

Statutory Authority: ORS Chapter 144

1 Suspension

2 254-60-010 The Chairperson [chairman] may on his/her own motion
3 suspend the release date of an offender. Suspension shall [will] be for
4 such time as is reasonably necessary to conduct the rescission hearing
5 and make a decision.

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7 Statutory Authority: ORS Chapter 144

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1 Parole Order Voided

2 254-60-015 An offender who voluntarily absents himself/herself
3 and is not available for a rescission hearing shall [will] have his/her
4 parole order voided by the chairperson [chairman]. The prisoner [offender]
5 shall [will] be scheduled for a rescission hearing when available at the
6 parent institution.

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8 Statutory Authority: ORS Chapter 144

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1 Basis for Rescission

2 254-60-020 At the hearing, the Board will take relevant, material,
3 and reliable information of the prisoner's [offender] misconduct which
4 causes the hearing to be held. [A decision] To rescind, the Board shall
5 clearly state the facts and reasons, including a statement of the misconduct,
6 for its decision to rescind [will indicate the misconduct] and set a new
7 parole release date or choose not to set a release date.

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9 Statutory Authority: ORS Chapter 144

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DIVISION 70

PAROLE REVOCATION

Parolee Placement in Community Corrections Centers

254-70-001 (1) A parolee who is having difficulty meeting the conditions of his/her parole or whose parole program is in jeopardy and who may be in danger of having his/her parole revoked, upon written consent may be placed in a Community Corrections Center pursuant to the Corrections Division "Rule on Procedures for Parolee Placement in Corrections Division Community Corrections Centers."

(2) A quorum of the Board must approve such placement when the parolee is to remain in a Community Corrections Center more than 30 days or before a second placement in a Community Corrections Center during a 12-month period.

(3) Voluntary termination of a parolee's placement in a Community Corrections Center shall not be grounds for revocation of parole.

Statutory Authority: ORS Chapter 144

1 Purpose

2 254-70-005 When the Board is informed and has reasonable grounds to
3 believe that a parolee has violated the conditions of his/her parole, these
4 procedures shall [will] be utilized to determine whether a violation of
5 condition(s) has occurred and whether parole should be continued, revoked
6 and reinstated, or revoked.

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8 Statutory Authority: ORS Chapter 144

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1 Suspension of Parole

2 254-70-010 Upon notice that a parolee has been arrested and detained
3 pursuant to ORS 144.350, or upon his/her own motion, the chairperson [chairman]
4 of the Board or his/her designee will initiate these procedures. Parole
5 suspension may be ordered pursuant to ORS 144.331.

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7 Statutory Authority: ORS Chapter 144

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1 Notice

2 254-70-015 Within a reasonable time before a hearing which may result
3 in the revocation of active parole status, the parolee shall be interviewed
4 and receive a notice containing the following information:

5 (1) A concise written statement of the alleged violations and the
6 evidence which forms the basis of the alleged violations.

7 (2) The parolee's right to a hearing and the time, place, and purpose
8 of the hearing.

9 (3) The names of the persons who have given adverse information upon
10 which the alleged violations are based and the right of the parolee to have
11 such persons present at the hearing for the purpose of confrontation and
12 cross-examination, unless it has been determined that there is good cause
13 for not revealing names nor allowing confrontation.

14 (4) The parolee's right to present letters, documents, affidavits, or
15 persons with relevant information at the hearing unless it has been determined
16 that informants would be subject to risk or harm if their identity were
17 disclosed.

18 (5) The parolee's right to subpoena under ORS 144.347, unless limited
19 by (3) or (4) above.

20 (6) The parolee's right to be represented by counsel, and, if indigent,
21 to have counsel appointed at state expense if the Board or its designated
22 representative determines, after request, that the request has merit in view
23 of the total situation, and it is claimed that:

24 (a) the parolee has not committed the alleged violation of parole
25 conditions; or

26 (b) even if the violation is a matter of public record or is uncontested,

1 there are substantial and complex reasons which make revocation inappropriate;

2 or

3 (c) the parolee, in doubtful cases, appears to be incapable of speaking
4 effectively for himself/herself.

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6 Statutory Authority: ORS Chapter 144

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1 Waiver

2 254-70-020 After notice as set out above, and full advice of rights
3 and procedure, the parolee may waive his/her right to a formal parole
4 violation hearing and elect to proceed informally at the initial interview:

5 (1) The parolee may or may not make a statement, written or, where
6 possible, oral, in which he/she may admit, not contest, or deny the alleged
7 violations, and may provide information supporting his/her retention of
8 active parole status in any case.

9 (2) The record of such informal proceeding shall include supporting
10 evidence, notice forms properly executed, and statements by parolee in
11 whatever form given, and shall be transmitted to the Board or its designated
12 representatives for review and preparation of proposed findings, recommenda-
13 tions and reasons under rule 254-70-030.

14 (3) Election to proceed informally includes waiver of right to
15 representation at all phases through Board decision, and of the right to
16 present witnesses and evidence not present during the interview.

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18 Statutory Authority: ORS Chapter 144

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1 Formal Hearings

2 254-70-025 Formal hearings may be conducted by a Board member or a
3 designated representative:

4 (1) Evidence: At formal hearings, the following material may be
5 received in evidence:

6 (a) oral testimony under oath,

7 (b) reports made in the course of official duty or professional
8 practice including, but not limited to, reports of law enforcement
9 officers, parole officers, social workers, doctors, and attorneys,

10 (c) documents which the Board determines to be relevant, material,
11 and reliable,

12 (d) if the Board determines evidence to be relevant, material, and
13 reliable, it shall not be excluded on the grounds of hearsay or lack of
14 opportunity for cross-examination,

15 (e) information adverse to the parolee may be received in evidence
16 without disclosure of the identity of the source of the information to the
17 parolee, if the Board or its representative determines there is good cause
18 for nondisclosure. The basis of the Board's or its representative's
19 determination shall be made a part of the record and shall be sealed.
20 This record shall only be available to the Board or a reviewing judicial body.

21 (2) Record of hearing: A record shall be made of the formal hearing
22 which shall include all evidence received and considered, and manual or
23 mechanical recording of all oral testimony and presentations.

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1 Findings, Recommendation, and Reasons for Recommendation

2 254-70-030 (1) Proposed: After either an informal or a formal
3 hearing, the parolee shall [will] be provided with proposed findings,
4 recommendation, and reasons for the recommendation. Unless he/she waives
5 this right, the parolee shall have 10 days from the date of mailing of the
6 proposed findings, recommendation, and reasons to file written exceptions
7 and arguments with the Board. Proposed findings are not required if the
8 hearing is conducted by a panel of the Board. If counsel has been requested
9 and denied, the proposed findings, recommendations and reasons shall [will]
10 reflect the grounds of the denial.

11 (2) Final: A majority of the Board may adopt the proposed findings,
12 recommendation, and reasons, may modify them, or may adopt other findings,
13 order, and reasons therefor. A copy of the final findings, order, and
14 reasons for order shall [will] be forwarded to the parolee with notice of
15 his/her right to administrative review pursuant to rule 254-80-005 and to
16 judicial review under ORS 144.335.

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18 Statutory Authority: ORS Chapter 144

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1 Revocation Procedures Where Parolee Out of State

2 254-70-035 When a parolee has left the state without permission,
3 or is in custody in a state to which he/she has not been paroled or is
4 in federal custody, his/her parole may be revoked and his/her return may be
5 ordered by the Board without any parole revocation proceedings. If
6 returned to any Corrections Division institution in this state, he/she
7 shall [will] be given a hearing under rule 254-70-045.

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9 Statutory Authority: ORS Chapter 144

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1 Parolee Receiving New Conviction

2 254-70-040 (1) A parolee who is convicted of any felony, or its
3 equivalent under Oregon laws, in any jurisdiction, may have parole revoked
4 by the Board without any proceeding other than receipt of proof of conviction.
5 An order revoking parole or other disposition shall [will] be sent by certified
6 mail to the parolee at his/her last known address and to the agency having
7 present custody.

8 (2) If an offender is returned to the custody of the Corrections
9 Division, he/she shall [will] be given a hearing under rule 254-70-045.

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11 Statutory Authority: ORS Chapter 144

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1 Return for Technical Violation

2 254-70-042 (1) A parolee revoked and returned after release with
3 an original crime severity of 1 through 5 shall serve four to six months
4 before rerelease unless aggravating or mitigating factors are present.

5 (2) A parolee revoked and returned after release with an original
6 crime severity of 6 or 7 shall serve six to ten months unless aggravating
7 or mitigating factors are present.

8 (3) Usual, but not exclusive factors in aggravation or mitigation
9 are shown in Exhibit G.

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11 Statutory Authority: ORS Chapter 144

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1 Future Disposition Hearing

2 254-70-045 (1) Purpose: Within a reasonable time after return to
3 Corrections Division confinement after parole is revoked, the Board shall
4 [will] schedule and conduct a hearing to establish future disposition of
5 the prisoner [offender]. This hearing shall be conducted under the
6 procedures of a parole hearing as provided in rule 254-50-015.

7 (2) Good Time After Revocation: Decisions regarding restoration
8 of institution good time, statutory and meritorious, earned but forfeited
9 upon parole shall [will] be made as follows:

10 (a) Good Time may be restored where the inmate was returned with a
11 new consecutive sentence, or where the Board denies further parole considera-
12 tion regardless of reason for return.

13 (b) The future disposition hearing shall [will] be scheduled early
14 in those cases where the institution is deferring program decisions until
15 after the issue of restoration is decided. In such cases, the superin-
16 tendent's request for an earlier future disposition hearing and good time
17 recommendation shall [will] initiate an accelerated hearing date.

18 (3) When a parolee is returned with a conviction for a new crime, a
19 new history/risk score reflecting the new conviction shall be calculated.

20 (a) In calculating the history/risk score, the original or former
21 conviction, incarceration and parole failure shall result in lost
22 points.

23 (b) The offense severity shall be assigned in accordance with the
24 most recent conviction(s) as set forth in Exhibit A.

25 (4) If the parolee's sentence on his/her new conviction is imposed
26 consecutive to the original or former commitment, the Board shall give

1 credit for the time served in the institution on the original or former
2 conviction.

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4 Statutory Authority: ORS Chapter 144

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1 DIVISION 80

2 ADMINISTRATIVE APPEAL

3 Method of Appeal

4 254-80-005 (1) Administrative appeal may be requested by a[n]
5 prisoner [offender] or a Board member [,] when the basis for the appeal
6 meets the criteria of the Board. The chairperson [chairman] shall
7 examine the request to ascertain whether or not it is [meritorious,]
8 consistent with the Board's criteria, as defined in rule 254-80-010, and
9 would have affected the decision. Should this examination satisfy the
10 above requirements, the chairperson [chairman] shall [will] remand the
11 case to the panel which heard it if possible. The appeal panel shall
12 [will] conduct a new hearing. If the requirements are not met, the
13 chairperson [chairman] shall [will] inform the prisoner [offender] in writing
14 that the prior decision remains in effect.

15 (2) If the chairperson was a member of a panel out of which an appeal
16 is generated and if the chairperson denies the appeal, he/she shall refer
17 the matter to a member who was not on the panel. In such cases, the member
18 may overrule the chairperson and call for a new hearing.

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20 Statutory Authority: ORS Chapter 144
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1 Criteria for Appeal

2 254-80-010 The basis for appeal must fall within one of the
3 following criteria:

4 (1) The written finding of the Board does not reflect the Board
5 action;

6 (2) Pertinent information was available at the time of the original
7 hearing which, through no fault of the prisoner [offender], was not
8 considered at the parole hearing;

9 (3) The action of the Board is inconsistent with its policies or
10 is contrary to law.

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12 Statutory Authority: ORS Chapter 144

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DIVISION 90

DISCHARGE

Discharge Generally

254-90-005 The following criteria and matrix shall [will] govern tentative discharge dates to be announced as a part of the hearing wherein parole is ordered and shall [will] be affixed to orders of parole:

(1) Criteria: During the term of active parole indicated in the matrix, the parolee must show evidence of satisfactory parole adjustment.

(2) Matrix:

(a) One-year active parole:

(A) Categories 1 & 2: H/R 11-0

(B) Category 3: H/R 11-3

(C) Category 4: H/R 11-6

(b) Time incarcerated prior to parole order shall [will] equal time on parole to tentative discharge:

(A) Category 3: H/R 2-0

(B) Category 4: H/R 5-0

(C) Category 5 & 6: H/R 11-0

Exception: Where time served exceeds 10 years, discharge may occur after 10 years' active parole, or expiration, whichever is first. This does not preclude early termination under rule 254-90-010(3) below.

Statutory Authority: ORS Chapter 144

1 Procedure

2 254-90-010 A minimum of 30 days prior to the tentative discharge
3 date affixed to the order of parole, the supervising officer shall [will]
4 prepare and send to the Board a supervisory report. This report shall
5 [will] recommend one of two courses:

6 (1) That the discharge certificate be forwarded to the supervising
7 officer for presentation to the parolee on the tentative discharge date
8 or the first prior business day. The supervising officer shall [will]
9 thereafter receive the certificate, shall [will] make presentation in
10 person or by certified mail at confirmed address, and shall [will] return
11 proof of presentation directly to the Board provided that no facts are
12 discovered between the submission of the supervising officer's report and
13 the discharge date which indicate discharge should not occur; or

14 (2) That the discharge not be granted on the tentative date. The
15 report shall [will] contain information showing that discharge is presently
16 incompatible with rule 254-90-005(1), shall [will] suggest a new discharge
17 date, and shall [will] explain why such extension is best for the parolee
18 and society. The Board shall [will] consider the recommendation in the same
19 manner as rule 254-40-030(1), and shall [will] notify the supervising
20 officer in writing of its decision and reasons therefor. The supervising
21 officer shall [will] then either receive, present, and return proof as in
22 (1) above, or shall [will] notify the parolee of the new discharge date and
23 reasons.

24 (3) Notwithstanding (1) and (2), in any case after expiration of
25 one year active parole when the supervising officer believes discharge should
26 precede the date affixed to the order of parole, he may notify the Board

1 Extension of Parole Termination Dates

2 254-90-015 Parole termination dates may be extended according to the
3 following procedures:

4 (a) An extension of a parole termination date shall be made by the
5 State Board of Parole when an inmate is paroled with Good Time under
6 forfeiture.

7 (b) Each superintendent is responsible for notifying the State Board
8 of Parole of the amount of Good Time under forfeiture when an inmate is
9 scheduled to be considered for release on parole.

10 (c) The inmate with Good Time under forfeiture will have his/her parole
11 termination date extended by the amount of Good Time under forfeiture at the
12 time of release.

13 (d) The State Board of Parole will stipulate in the parole order the
14 amount of Good Time under forfeiture.

15
16 ORS Chapter 144

1 with written reasons and recommendation. After consideration as in rule
2 254-40-030(1), the Board shall [will] either forward a discharge certificate
3 or a written explanation for denial of the request.

4 (4) In those discharge cases where the Board desires further
5 information on which to base its decision, it may dispatch a designated
6 representative or Board member to conduct a hearing in accordance with rule
7 254-70-025(1).

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9 Statutory Authority: ORS Chapter 144

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1 Reducing an Extended Parole Termination Date

2 254-90-020 An extended parole termination date may be reduced under
3 the following procedures:

4 (1) Supervising parole officers may make recommendations to the
5 Board of Parole to reduce an extended parole termination date on the basis
6 of the following factors:

7 (a) the various factors listed in rule 254-30-055(2)(b);

8 (b) the record of the inmate's conduct since the offense on which
9 the extension was based; and

10 (c) other factors which are exceptionally mitigating to the situation;

11 (2) The supervising parole officer is responsible for developing such
12 recommendations in consultation with the superintendent of the institution
13 from which the parolee was paroled.

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15 Statutory Authority: ORS Chapter 144

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EXHIBIT A

Offense Severity Under Rule 30-030

OFFENSE	RATING
[Bribery]
[162.015 - Bribe Giving	3]
[162.025 - Bribe Receiving	3]
[Perjury]
[162.065 - Perjury	2]
[Escape Related]
[162.155 - Escape II	2]
[162.165 - Escape I	4]
[162.185 - Supplying Contraband	1]
[162.205 - Failure to Appear I	2]
[Obstructing Governmental Administration]
[162.265 - Bribing a Witness	2]
[162.275 - Witness Receiving Bribe	2]
[162.325 - Hindering Prosecution	1]
[Homicide]
[163.115 - Murder	7]
[163.118 - Manslaughter I	6]
[163.125 - Manslaughter II	5]
[163.145 - Criminally Negligent Homicide	2]
[Assault Related]
[163.175 - Assault II	4]
[163.185 - Assault I	5]
[163.205 - Criminal Mistreatment	2]
[Kidnapping Related]
[163.225 - Kidnapping II	4]
[163.235 - Kidnapping I	6]
[163.257 - Custodial Interference I	2]

OFFENSE RATING

[Coercion]
 [163.275 - Coercion] 2

[Sexual Offenses]
 [163.355 - Rape III] 2
 [163.365 - Rape II] 4
 [163.375 - Rape I] 6
 [163.385 - Sodomy III] 2
 [163.395 - Sodomy II] 4
 [163.405 - Sodomy I] 6
 [163.425 - Sexual Abuse I] 2

[Family Offenses]
 [163.515 - Bigamy] 1
 [163.525 - Incest] 1
 [163.535 - Abandon Child] 2
 [163.555 - Criminal Nonsupport] 1

[Theft Related]
 [164.055 - Theft I] 2
 [164.065 - Theft: lost, mislaid] 1
 [164.075 - Theft by Deception] 1
 [164.095 - Theft by Receiving] 2
 [164.125 - Theft of Services] 1
 [164.135 - Unauthorized Use of Motor Vehicle] 2

[Burglary]
 [164.215 - Burglary II] 2
 [164.225 - Burglary I] 4

[Arson]
 [164.315 - Arson II] 2
 [164.325 - Arson I] 5
 [164.365 - Criminal Mischief I] 1

[Robbery]
 [164.395 - Robbery III] 2
 [164.405 - Robbery II] 4
 [164.415 - Robbery I] 5

EXHIBIT A(Continued)

<u>OFFENSE</u>	<u>RATING</u>
<u>[Forgery Related</u>	
[165.013 - Forgery I	2]
[165.022 - Forged Instrument I	1]
[165.032 - Forgery Device	1]
[165.055 - Fraudulent Use of a Credit Card	1]
[165.070 - Fraudulent Communication Device	1]
<u>[Business/Commercial</u>]
[165.085 - Sports Bribery	2]
[165.090 - Sports Bribe Receiving	2]
<u>[Riot Related</u>]
[166.005 - Treason	7]
[166.015 - Riot	2]
<u>[Firearms</u>]
[166.270 - Ex-Convict in Possession	2]
[166.410 - Sale related	2]
<u>[Prostitution Related</u>]
[167.012 - Promoting Prostitution	1]
[167.137 - Compelling Prostitution	3]
<u>[Gambling</u>]
[167.127 - Promoting Gambling	1]
[167.137 - Possession of Gambling Records I	1]
<u>[Drugs Related</u>]
[167.207(1) - Criminal Activity in Drugs	3]
[167.207(4) - Criminal Activity in Drugs	4]
[167.212 - Tampering with Drug Records	1]
[167.278 - Obtaining Drugs Unlawfully	1]

EXHIBIT A
Part I
Offense Severity Under Rule 30-030

OFFENSE	RATING	FELONY CLASS
<u>163.115 - Murder</u>	<u>7</u>	<u>A</u>
<u>166.005 - Treason</u>	<u>7</u>	<u>A</u>
<u>163.118 - Manslaughter I</u>	<u>6</u>	<u>A</u>
<u>163.235 - Kidnapping I</u>	<u>6</u>	<u>A</u>
<u>163.375 - Rape I (Subcategory 1)*</u>	<u>6</u>	<u>A</u>
<u>163.405 - Sodomy I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>164.415 - Robbery I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>163.185 - Assault I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>164.325 - Arson I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>163.185 - Assault I (Subcategory 2)</u>	<u>5</u>	<u>A</u>
<u>164.325 - Arson I (Subcategory 2)</u>	<u>5</u>	<u>A</u>
<u>164.415 - Robbery I (Subcategory 2)</u>	<u>5</u>	<u>A</u>
<u>162.165 - Escape I</u>	<u>5</u>	<u>B</u>
<u>164.225 - Burglary I (Subcategory 1)</u>	<u>5</u>	<u>A</u>
<u>163.175 - Assault II</u>	<u>4</u>	<u>B</u>
<u>163.225 - Kidnapping II</u>	<u>4</u>	<u>B</u>
<u>163.365 - Rape II (Subcategory 1)</u>	<u>4</u>	<u>B</u>
<u>163.395 - Sodomy II</u>	<u>4</u>	<u>B</u>
<u>164.225 - Burglary I (Subcategory 2)</u>	<u>4</u>	<u>A</u>
<u>167.017 - Compelling Prostitution</u>	<u>4</u>	<u>B</u>
<u>164.405 - Robbery II</u>	<u>4</u>	<u>B</u>
<u>167.207(4) - Criminal Activity in Drugs</u> <u>(Subcategory 1)</u>	<u>4</u>	<u>A</u>
<u>163.275 - Coercion (Subcategory 1)</u>	<u>4</u>	<u>C</u>
<u>164.075 - Theft by Extortion (Subcategory 1)</u>	<u>4</u>	<u>C</u>
<u>163.125 - Manslaughter II</u>	<u>3</u>	<u>B</u>
<u>162.015 - Bribe Giving</u>	<u>3</u>	<u>B</u>
<u>162.025 - Bribe Receiving</u>	<u>3</u>	<u>B</u>
<u>167.207(1) - Criminal Activity in Drugs</u> <u>(Subcategory 1)</u>	<u>3</u>	<u>B</u>
<u>163.425 - Sexual Abuse I</u>	<u>3</u>	<u>C</u>
<u>166.015 - Riot</u>	<u>3</u>	<u>C</u>
<u>164.225 - Burglary I (Subcategory 3)</u>	<u>3</u>	<u>A</u>
<u>163.365 - Rape II (Subcategory 2)</u>	<u>3</u>	<u>B</u>
<u>164.215 - Burglary II (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>164.055 - Theft I (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>164.125 - Theft of Services (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>164.085 - Theft by Deception (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>165.013 - Forgery I (Subcategory 1)</u>	<u>3</u>	<u>C</u>

*Breakdowns for Broad-Scope Offense Categories are outlined in part two of Exhibit A.

OFFENSE	RATING	FELONY CLASS
<u>162.065 - Perjury</u>	<u>2</u>	<u>C</u>
<u>162.155 - Escape II (Subcategory 1)*</u>	<u>2</u>	<u>C</u>
<u>162.205 - Failure to Appear I</u>	<u>2</u>	<u>C</u>
<u>162.265 - Bribing a Witness</u>	<u>2</u>	<u>C</u>
<u>162.275 - Witness Receiving Bribe</u>	<u>2</u>	<u>C</u>
<u>163.145 - Criminally Negligent Homicide</u>	<u>2</u>	<u>C</u>
<u>163.205 - Criminal Mistreatment</u>	<u>2</u>	<u>C</u>
<u>163.257 - Custodial Interference I</u>	<u>2</u>	<u>C</u>
<u>163.275 - Theft by Coercion (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>163.355 - Rape III</u>	<u>2</u>	<u>C</u>
<u>163.385 - Sodomy III</u>	<u>2</u>	<u>C</u>
<u>163.535 - Abandon Child</u>	<u>2</u>	<u>C</u>
<u>164.055 - Theft I (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>164.095 - Theft by Receiving</u>	<u>2</u>	<u>C</u>
<u>164.135 - Unauthorized Use of a Motor Vehicle</u> <u>(Subcategory 1)</u>	<u>2</u>	<u>C</u>
<u>164.215 - Burglary II (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>164.315 - Arson II</u>	<u>2</u>	<u>C</u>
<u>164.395 - Robbery III</u>	<u>2</u>	<u>C</u>
<u>165.013 - Forgery I (Subcategory 2)</u> <u>- Assault III</u>	<u>2</u>	<u>C</u>
<u>167.207(4) - Criminal Activity in Drugs</u> <u>(Subcategory 3)</u>	<u>2</u>	<u>A</u>
<u>167.207(1) - Criminal Activity in Drugs</u> <u>(Subcategory 2)</u>	<u>2</u>	<u>A</u>
<u>164.125 - Theft of Services (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>164.075 - Theft by Deception (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>165.095 - Sports Bribery</u>	<u>2</u>	<u>C</u>
<u>165.090 - Sports Bribe Receiving</u>	<u>2</u>	<u>C</u>
<u>166.270 - Ex-convict in Possession</u>	<u>2</u>	<u>C</u>
<u>166.410 - Sale related (firearms)</u>	<u>2</u>	<u>C</u>
<u>166.220 - Carrying Weapon With Intent to Use</u>	<u>2</u>	<u>C</u>
<u>167.012 - Promoting Prostitution</u>	<u>2</u>	<u>C</u>
<u>167.278 - Obtaining Drugs Unlawfully</u>	<u>2</u>	<u>B</u>
<u>162.185 - Supplying Contraband</u>	<u>1</u>	<u>C</u>
<u>162.325 - Hindering Prosecution</u>	<u>1</u>	<u>C</u>
<u>163.515 - Bigamy</u>	<u>1</u>	<u>C</u>
<u>163.525 - Incest</u>	<u>1</u>	<u>C</u>
<u>163.555 - Criminal Nonsupport</u>	<u>1</u>	<u>C</u>
<u>164.065 - Theft: Lost, Mislaid</u>	<u>1</u>	<u>C</u>
<u>164.075 - Theft by Deception (Subcategory 3)</u>	<u>1</u>	<u>C</u>
<u>164.125 - Theft of Services (Subcategory 3)</u>	<u>1</u>	<u>A -\$200 (Misd.)</u> <u>C +\$200</u>
<u>164.365 - Criminal Mischief I</u>	<u>1</u>	<u>C</u>
<u>165.022 - Forged Instrument I</u>	<u>1</u>	<u>C</u>
<u>165.032 - Forgery Device</u>	<u>1</u>	<u>C</u>
<u>165.055 - Fraudulent Use of a Credit Card</u>	<u>1</u>	<u>A -\$200 (Misd.)</u> <u>C +\$200</u>

OFFENSE	RATING	FELONY CLASS
<u>165.070 - Fraudulent Communication Device</u>	<u>1</u>	<u>C</u>
<u>167.127 - Promoting Gambling</u>	<u>1</u>	<u>C</u>
<u>167.137 - Possession of Gambling Records I</u>	<u>1</u>	<u>C</u>
<u>167.212 - Tampering with Drug Records</u>	<u>1</u>	<u>C</u>
- <u>Welfare Fraud</u>	<u>1</u>	<u>C</u>
- <u>Felony Traffic</u>	<u>1</u>	<u>C</u>
<u>133.723 - Interception of Communication</u>	<u>1</u>	<u>C</u>
<u>133.723 - Poaching (Salmon, probably 2)</u>	<u>1</u>	<u>C</u>
<u>167.207(1) - Criminal Activity in Drugs</u>		
- (Subcategory 3)	<u>1</u>	<u>A</u>
<u>164.215 - Burglary II (Subcategory 3)</u>	<u>1</u>	<u>C</u>
<u>164.055 - Theft I (Subcategory 3)</u>	<u>1</u>	<u>C</u>
<u>164-135 - Unauthorized Use of a Motor Vehicle</u>		
(Subcategory 2)	<u>1</u>	<u>C</u>
<u>162.155 - Escape I (Subcategory 2)*</u>	<u>1</u>	<u>C</u>

Conspiracy shall be treated as having the same offense severity as the crime conspired to.

*See rule 254-30-032(6).

EXHIBIT A
Part II
Offense Seriousness Ratings:
Subcategorization of Broad-Scope Offense Categories

RAPE I -- ORS-163.375

Felony Class: A

Statutory Elements: Forcible compulsion; or voluntary intercourse with female under 12; or incestuous voluntary intercourse with female under 16

Subcategory 1 - rating of 6

...Forcible compulsion (except if preexisting sexual relationship and no actual or attempted serious bodily harm); or
...Intercourse with female under 12

Subcategory 2 - rating of 5

...All other cases

Rationale: This reduces by one grade (to 5) cases of rape where there was a preexisting relationship and no serious injury was involved.

SODOMY I -- ORS 163.405

Sodomy I is the same as Rape I except that deviate sexual intercourse is involved. The breakdown should be the same as for Rape I.

ROBBERY I - ORS 164.415

Felony Class: A

Statutory Elements: Robbery involved either:
armed with a deadly weapon; or
uses or attempts to use dangerous weapon; or
causes or attempts to cause serious injury

ARSON I (Continued)

Subcategory 1 - rating of 6

...Knowing the premises were occupied at time of act; or

...Actual serious injury

Subcategory 2 - rating of 5

...Other cases of Arson I

Rationale: This raises by one grade to 6 cases of arson where the arsonist either knew the premises were occupied or where serious injury actually resulted. Because of the actual injury or extreme risk involved in such cases, these seem to be more serious.

BURGLARY I -- ORS 164.225

Felony Class: A

Statutory Elements: Burglary involving either:
entry of a dwelling; or else
entry of a building, if defendant is armed/carries
burglar's tools/causes or threatens injury/or use of a
dangerous weapon

Subcategory 1 - rating of 5

Entry into any actually or regularly occupied building, whether a dwelling or non-dwelling, where defendant

...Used or threatened to use, by word or gesture, a dangerous weapon; and
...caused or threatened serious physical injury

Subcategory 2 - rating of 4

...Entry into a residence or temporary residence, except for cases fitting
Subcategory 3

Subcategory 3 - rating of 3

Entry into a residence or temporary residence in which

...Defendant is not armed with a deadly or dangerous weapon; and
...No extensive property damage; and
...Value of goods taken was below \$1,000

Rationale: This would give a level 5 to burglaries where the burglar threatens or seriously injures occupants. It would give a level of 4 to the more serious home burglaries not involving a weapon and confrontation, namely those in which the

ROBBERY I (Continued)

Subcategory 1 - level of 6

...All cases of Robbery I except those fitting Subcategory 2

Subcategory 2 - level of 5

Cases of robbery where the crime does not involve

...discharge of a firearm; or

...use of any other dangerous weapon; or

...explicit and immediate threats, by word or gesture (e.g., cocking hammer of gun), of death or serious bodily harm; or

...serious injury

Rationale: This raises to a 6 the more serious cases of robbery, viz. where there is use of a weapon, menacing or serious injury.

ASSAULT I -- ORS 163.185

Felony Class: A

Statutory Elements: Actual serious injury under circumstances evidencing extreme indifference to human life

Subcategory 1 - level of 6

...All cases of Assault I except those fitting Subcategory 2

Subcategory 2 - level of 5

...Cases of Assault I in which the victim or victims provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed substantially to the criminal episode.

Rationale: This raises unprovoked cases of Assault I to a 6.

ARSON I -- ORS 164.325

Felony Class: A

Statutory Elements: Arson involving either:
property of another which is customarily occupied by people; or
own property, if persons are endangered or if other customarily
occupied property is also endangered.

BURGLARY I (Continued)

place was ransacked or valuable goods were taken. It would give a level 3 to the less serious home burglaries, namely those in which there was no weapon, no ransacking, and the goods taken were under \$1,000. A typical example would be an unarmed breaking and entry of a house while the occupants were absent, and theft of a television set. It would give a level of 3 also to cases not involving invasions of privacy (e.g., entry into a warehouse).

RAPE II -- ORS 163.365

Felony Class: B

Statutory Elements: Nonforcible intercourse involving:
incapacitated (e.g., mentally defective) female; or
female under 14 (i.e., 12 or 13)

Subcategory 1 - rating of 4

...All cases of Rape II except those fitting Subcategory 2

Subcategory 2 - rating of 3

...Not both under 16 and incapacitated; and
...No coercion or undue influence (e.g., father, step-father); and
...No position of trust (e.g., counselor, doctor)

Rationale: The rating of 4 seems appropriate for cases of statutory rape where there was coercion or undue influence or misuse of a position of trust, or where the female was underage and mentally defective, as these all involve strong elements of involuntariness. However, voluntary intercourse with a 12- or 13-year-old girl and voluntary sexual intercourse with a woman over 16 who was incapacitated seem less serious, and this gives a ranking of 3.

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) -- ORS 167.207(4)

Felony Class: A

Statutory Elements: Furnishing a narcotic or dangerous drug to a person
under 18 by an adult at least three years older

Subcategory 1 - rating of 4

...Furnishing heroin or opiate derivatives; or
...Sale for profit of any drug

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) (Continued)

Subcategory 2 - rating of 3

...Furnishing any other drug except those fitting in Subcategory 3

Subcategory 3 - rating of 2

...Furnishing less than one ounce of marijuana

Rationale: This treats transfer of addictive drugs or drug dealing with minors as more serious than normal and sales of less than an ounce of marijuana as less serious.

CRIMINAL ACTIVITY IN DRUGS (OTHER) -- ORS 167.207(1)

Felony Class: B

Statutory Elements: Manufacture, cultivation, sale or possession of any narcotic or dangerous drug (other than possession of less than one ounce of marijuana)

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

Rationale: This retains the rating of 3 for dealing in narcotics, which involves higher social damage than other drugs. It gives a rating of 2 for dealing in non-addictive drugs. Possession of any drug for own use is given a 1, as this primarily involves self-injury. Reliance, though not exclusive, is to be placed on the judicial sentencing findings to determine the above elements with the burden on the defendant to show manufacture or possession for own use.

BURGLARY II -- ORS 164.215

Felony Class: C

Statutory Elements: Any illegal entry, if not a Burglary I, with intent to commit a crime therein

THEFT OF SERVICES -- ORS 164.125

The breakdown should be the same as for ordinary Theft.

THEFT BY DECEPTION -- ORS 164.085

The breakdown should be the same as for ordinary Theft.

THEFT BY EXTORTION -- ORS 164.075

Felony Class: C

Statutory Elements: Extortion through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

Rationale: Extortion involving threats of serious personal injury is clearly more serious.

COERCION -- ORS 163.275

Felony Class: C

Statutory Elements: Compelling another to act through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

Rationale: Coercion involving threats of serious personal injury is clearly more serious.

BURGLARY II (Continued)

Subcategory 1 - rating of 3

...Theft or destruction of over \$5,000

Subcategory 2 - rating of 2

...Theft or destruction of between \$1,000 and \$5,000

Subcategory 3 - rating of 1

...Theft or destruction of less than \$1,000

Rationale: These are illicit entries which neither involve a dwelling nor a high risk (no gun) nor professionalism (no burglar's tools). Thus, they seem to be closely akin to simple theft (see below) and are treated as such.

THEFT I -- ORS 164.055

Felony Class: C

Statutory Elements: Theft involving:
more than \$200; or
during a riot or catastrophe; or
theft by receiving; or
of a livestock animal; or
of a firearm or explosive

Subcategory 1 - rating of 3

...Theft or receiving of over \$5,000

Subcategory 2 - rating of 2

...Theft or receiving of \$1,000 to \$5,000

...Theft of a firearm or explosive

...Theft of a livestock animal

...Theft during riot or catastrophe

Subcategory 3 - rating of 1

...Other thefts (i.e., thefts under \$1,000)

Rationale: This raises thefts of large amounts (over \$5,000) to a 3. It reduces relatively small thefts (less than \$1,000, but more than \$200).

UNAUTHORIZED USE OF A MOTOR VEHICLE -- ORS 164.135

Felony Class: C

Statutory Elements: Joyriding, unauthorized exercise of control over vehicle

Subcategory 1 - rating of 2

...Loss, destruction or severe damage to vehicle or to property; or
...Injury to others.

Subcategory 2 - rating of 1

...Other

Rationale: This reduces to 1 simple joyriding where the vehicle is recovered and no property damage is done to others and no one is hurt.

FORGERY I -- ORS 165.013

Felony Class: C

The breakdown should be based on the amounts involved in the same manner as theft.

Note: For this crime and other theft crimes, the amounts involved would be based on the amounts for which each defendant has been convicted or has admitted.

POACHING

Felony Class: 1

Subcategory 1 - rating of 2

...Poaching of game valued over \$3,000; or
...Commercial operation

Subcategory 2 - rating of 1

...Other

Rationale: This raises the rating to 2 for large-scale commercial poaching.

ESCAPE II -- ORS 162.155

Felony Class: C

Statutory Elements: Escape from custody where individual:
uses or threatens to use physical force; or
the confinement is due to a finding of guilt of a felony; or
escape is from a correctional facility.

Subcategory 1 - rating of 2

...All cases of Escape except those fitting Subcategory 2

Subcategory 2 - rating of 1

...Escapes from a minimum custody situation in a correctional facility for
no more than 30 days (e.g., walkaways from Prison Farm, Work Release Center,
outside custody at OSP)

Rationale: Short-term walkaways from minimum custody situations are less
serious. However, they are of sufficient seriousness to be treated under
appropriate matrix ranges.

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

ITEM	SCORE
(A) No prior felony or misdemeanor convictions as an adult or juvenile:	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0 _____
(B) No prior <u>incarcerations</u> [commitments of 60 days or more] (i.e., <u>executed sentences of 90 days or more</u>) as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0 _____
(C) Age at first commitment of <u>90</u> [60] days or more:*	
26 or older	2
19 through 25	1
18 or younger:	0 _____
(D) Never escaped, failed parole or probation:**	2
One <u>incident of the above</u> [of the above items]:	1
<u>Any two or more incidents of the above</u> [of the above items]:	0 _____
(E) Has no admitted or documented heroin or opiate derivative abuse problem, or has no admitted or documented alcohol problem [alcohol or drug abuse program]:	1
One or more of the above [Otherwise]:	0 _____
(F) Verified [employment or full-time school attendance during 6 months of the last 24 months in the community or] <u>period of 5 years conviction free in the community:</u>	1
Otherwise:	0 _____

[Check the appropriate items, if:]

- [() Employment]
- [() School Attendance]
- [() Conviction-free Period]

1 TOTAL HISTORY/RISK ASSESSMENT SCORE: _____

2 *If no prior commitment, use age at present conviction

3 **Count probation failure only if it resulted from new crime; count any
4 parole failure

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EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9	8-6	5-3	2-0
Excellent	Good	Fair	Poor

OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	<u>≤6</u>	<u>≤6</u>	<u>6-12</u> <u>(4-8)*</u>	<u>12-22</u> <u>(8-18)</u>
Category 2 - - - - -	<u>≤6</u>	<u>6-10</u> <u>(4-8)</u>	<u>10-18</u> <u>(8-14)</u>	<u>18-28</u> <u>(14-24)</u>
Category 3 - - - - -	<u>6-10</u> <u>(4-8)</u>	<u>10-16</u> <u>(8-12)</u>	<u>16-24</u> <u>(12-20)</u>	<u>24-36</u> <u>(20-32)</u>
Category 4 - - - - -	<u>10-16</u> <u>(8-12)</u>	<u>16-22</u> <u>(12-18)</u>	<u>22-30</u> <u>(16-24)</u>	<u>30-48</u> <u>(24-42)</u>
Category 5 - - - - -	<u>18-24</u>	<u>24-30</u> <u>(20-26)</u>	<u>30-48</u> <u>(26-40)</u>	<u>48-72</u> <u>(40-62)</u>
Category 6 - - - - -	<u>36-48</u>	<u>48-60</u>	<u>60-86</u>	<u>86-144</u>
** Category 7 - - - - -	<u>10-14</u> <u>yrs.</u>	<u>14-19</u> <u>yrs.</u>	<u>19-24</u> <u>yrs.</u>	<u>24-Life</u> <u>yrs.</u>

* Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

** The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9 8-6 5-3 2-0

OFFENSE SEVERITY	RATING	(All ranges in categories 1-6 shown in months)
Category 1	[4-8	4-8
Category 2	[4-8	5-10 (5-9) 10-18 (9-14) 18-28 (14-28)]
Category 3	[5-10	10-16 (9-14) 16-24 (14-18) 24-42 (18-24)]
Category 4	[0-16	16-22 (14-18) 22-30 (18-24) 30-48 (24-36)]
Category 5	[16-22	22-28 (18-22) 28-36 (22-30) 36-72 (30-56)]
Category 6	[24-48	36-60 48-84 60-144]
Category 7	[10-14	12-20 18-26 24-116] yrs.

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

**The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT D

Maximum Variations from the Ranges under Rule 30-033

	<u>11-9</u>	<u>8-6</u>	<u>5-3</u>	<u>2-0</u>
	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>

<u>OFFENSE SEVERITY</u> <u>RATING</u>	<u>(All ranges in Categories 1-6</u> <u>shown in months)</u>			
<u>Category 1 - - - - -</u>	<u>±2</u>	<u>±2</u>	<u>±3</u>	<u>±4</u>
<u>Category 2 - - - - -</u>	<u>±2</u>	<u>±3</u>	<u>±4</u>	<u>±6</u>
<u>Category 3 - - - - -</u>	<u>±3</u>	<u>±4</u>	<u>±6</u>	<u>±8</u>
<u>Category 4 - - - - -</u>	<u>±4</u>	<u>±6</u>	<u>±8</u>	<u>±10</u>
<u>Category 5 - - - - -</u>	<u>±6</u>	<u>±8</u>	<u>±10</u>	<u>±14</u>
<u>Category 6 - - - - -</u>	<u>±12</u>	<u>±14</u>	<u>±18</u>	<u>±24</u>
<u>Category 7 - - - - -</u>	<u>±2 years</u>	<u>±2 years</u>	<u>±2 years</u>	<u>-2/NA</u>

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[EXHIBIT D]

[Aggravation/Mitigation - Rule 30-033]

[AGGRAVATIONMITIGATION]

- | | |
|---|--|
| [Production or use of any
weapon during the crim-
inal episode.] | [Withdrawal insufficient to
constitute a defense but
indicative of lesser intent;
or peripheral involvement in
the episode.] |
| [Substantial property loss
or damage during the
episode; or criminal ex-
ploitation of a position
of trust.] | [Amounts of money or property
taken, lost or damaged were
deliberately small.] |
| [Particularly vulnerable vic-
tims i.e., aged, handi-
capped, very young; or
degree of any physical
injury to any person
during the episode; or
threat or violence toward
witnesses or other persons.] | [Victim or victims provoked the
crime to a significant
degree.] |
| [Ability to pay fines, resti-
tution or costs and failure
to do so.] | [Effort to make restitution or
reparation.] |
| [More than one offense.] | [Cooperation with criminal justice
agencies in resolution of other
criminal activity.] |

EXHIBIT E

Aggravation/Mitigation - Rule 30-033

AGGRAVATION

Production or use of any weapon during the criminal episode.

Threat or violence toward witness(es) or victim(s).

Particularly vulnerable victims (i.e., aged, handicapped or very young).

Ability to make restitution or reparation and failure to do so.

Violation of position of public trust or of recognized professional ethics.

The degree of property loss, personal injury or threatened personal injury was substantially greater than is characteristic for the crime.

The crime involved multiple victims.

More than one concurrently imposed conviction, not arising out of the same criminal episode.

Verified instances of repetitive assaultive conduct.

Seriousness of new criminal conduct occurring on present probation.

Judge's sentence and reasons under rule 254-30-033(5) and plea bargained offenses under rule 254-30-033(4) may be considered as either an aggravating or mitigating circumstance.

MITIGATION

Victim or victims provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed substantially to criminal episode.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Effort to make restitution or reparation.

The degree of property loss, personal injury or threatened personal injury was substantially less than is characteristic for the crime.

Special efforts on the part of the perpetrator to minimize the harm and risk involved in the crime.

Peripheral involvement in the criminal episode (e.g., passive accessory).

Evidence of withdrawal, duress, necessity, lack of sustained criminal intent, or diminished mental capacity, e.g., mental retardation, which is insufficient to constitute a defense but is indicative of reduced culpability.

EXHIBIT F

Outline for Parole Analysis Report

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

Recommendations

Section II:

Confidential data exempt from disclosure under ORS 192.500(2)(d)

EXHIBIT G

Parole Violator Rerelease Considerations

Aggravation

Mitigation

Less than 6 months
to first difficulty.

More than 9 months to first dif-
ficulty.

Prior difficulty while on
parole or previous revocation.

No prior difficulty while
on parole.

Findings at the Morrissey
Hearing that new criminal
activity has occurred.

No basis to believe criminal
activity has occurred.

Resistance to parole supervision,
return to heavy alcohol or drug use,
possession of any weapon.

Cooperation with parole plan
until new difficulty.
No alcohol or drug abuse.

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3-8-78

FILED
MAR 8 1978
NORMA 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 _____
State Board of Parole _____ on March 8, 1978 _____
_____ (Agency) _____ (Date)
to become effective March 8, 1978 _____
_____ (Date)

The within matter having come before the State 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted: _____ Temp. Perm.
(New Rules) _____

Amended: Exhibit A, Part II
(Existing Rules) _____

Suspended: _____
(Temporary Only) _____

Repealed: _____
(Existing Rules) _____

as Administrative Rules of the State Board of Parole _____
_____ (Agency)

DATED this 8th day of March 1978

By: Don Blalock
(Authorized Signer)
Title: Chairman, State Board of Parole

Statutory Authority: ORS Chapter 144
Subject Matter: Offense Seriousness Ratings: Subcategorization of Broad-Scope Offense
Categories _____

Statement of Need Attached: Yes No

For Further Information Contact: Marc Sussman Phone: 378-2171

STATEMENT OF NEED
FOR TEMPORARY RULES

This rule is being adopted pursuant to legislation passed by the 69th Legislative Session, ORS 144.775 et. seq.

The Board of Parole has acted in response to the recommendations of the Advisory Commission on Prison Terms and Parole Standards and has adopted this rule to structure discretion.

The rule is adopted on an emergency basis because the language which was amended did not express the intent of the Advisory Commission's proposal and would lead to improper classification in the subcategories.

March 8, 1978
Date


Chairman, State Board of Parole

EXHIBIT A
Part II
Offense Severity Ratings:
Subcategorization of Broad-Scope Offense Categories

RAPE I -- ORS 163.375

Felony Class: A

Statutory Elements: Forcible compulsion; or voluntary intercourse with female under 12; or incestuous voluntary intercourse with female under 16

Subcategory 1 - rating of 6

...Stranger to stranger; aggravated custodial interference; breaking and entering; threat to use or use of a weapon; or actual or attempted serious bodily or emotional harm; [Forcible compulsion (except if preexisting sexual relationship and no actual or attempted serious bodily harm)] or
...Intercourse with female under 12

Subcategory 2 - rating of 5

...All other cases

Rationale: This recognizes relative degrees of seriousness of violation based on injury, violence, surprise, identity of parties, and the extent of the invasion of victim's privacy. [This reduces by one grade (to 5) cases of rape where there was a preexisting relationship and no serious injury was involved.]

SODOMY I -- ORS 163.405

Sodomy I is the same as Rape I except that deviate sexual intercourse is involved. The breakdown should be the same as for Rape I.

ROBBERY I - ORS 164.415

Felony Class: A

Statutory Elements: Robbery involved either:
armed with a deadly weapon; or
uses or attempts to use dangerous weapon; or
causes or attempts to cause serious injury

ROBBERY I (Continued)

Subcategory 1 - level of 6

...All cases of Robbery I except those fitting Subcategory 2

Subcategory 2 - level of 5

Cases of robbery where the crime does not involve

...discharge of a firearm; or

...use of any other dangerous weapon; or

...explicit and immediate threats, by word or gesture (e.g., cocking hammer of gun), of death or serious bodily harm; or

...serious injury

Rationale: This raises to a 6 the more serious cases of robbery, viz. where there is use of a weapon, menacing or serious injury.

ASSAULT I -- ORS 163.185

Felony Class: A

Statutory Elements: Actual serious injury under circumstances evidencing extreme indifference to human life

Subcategory 1 - level of 6

...All cases of Assault I except those fitting Subcategory 2

Subcategory 2 - level of 5

...Cases of Assault I in which the victim or victims provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed substantially to the criminal episode.

Rationale: This raises unprovoked cases of Assault I to a 6.

ARSON I -- ORS 164.325

Felony Class: A

Statutory Elements: Arson involving either:
property of another which is customarily occupied by people; or
own property, if persons are endangered or if other customarily
occupied property is also endangered.

ARSON I (Continued)

Subcategory 1 - rating of 6

...Knowing the premises were occupied at time of act; or
...Actual serious injury

Subcategory 2 - rating of 5

...Other cases of Arson I

Rationale: This raises by one grade to 6 cases of arson where the arsonist either knew the premises were occupied or where serious injury actually resulted. Because of the actual injury or extreme risk involved in such cases, these seem to be more serious.

BURGLARY I -- ORS 164.225

Felony Class: A

Statutory Elements: Burglary involving either:
entry of a dwelling; or else
entry of a building, if defendant is armed/carries burglar's
tools/causes or threatens injury/or use of a dangerous weapon

Subcategory 1 - rating of 5

Entry into any actually or regularly occupied building, whether a dwelling or non-dwelling, where defendant

...Used or threatened to use, by word or gesture, a dangerous weapon; and
...Caused or threatened serious physical injury

Subcategory 2 - rating of 4

...Entry into a residence or temporary residence, except for cases fitting
Subcategory 3

Subcategory 3 - rating of 3

Entry into a residence or temporary residence in which

...Defendant is not armed with a deadly or dangerous weapon; and
...No extensive property damage; and
...Value of goods taken was below \$1,000

Rationale: This would give a level 5 to burglaries where the burglar threatens or seriously injures occupants. It would give a level of 4 to the more serious home burglaries not involving a weapon and confrontation, namely those in which the

BURGLARY I (Continued)

place was ransacked or valuable goods were taken. It would give a level 3 to the less serious home burglaries, namely those in which there was no weapon, no ransacking, and the goods taken were under \$1,000. A typical example would be an unarmed breaking and entry of a house while the occupants were absent, and theft of a television set. It would give a level of 3 also to cases not involving invasions of privacy (e.g., entry into a warehouse).

RAPE II -- ORS 163.365

Felony Class: B

Statutory Elements: Nonforcible intercourse involving:
incapacitated (e.g., mentally defective) female; or
female under 14 (i.e., 12 or 13)

Subcategory 1 - rating of 4

...All cases of Rape II except those fitting Subcategory 2

Subcategory 2 - rating of 3

...Not both under 16 and incapacitated; and
...No coercion or undue influence (e.g., father, step-father); and
...No position of trust (e.g., counselor, doctor)

Rationale: The rating of 4 seems appropriate for cases of statutory rape where there was coercion or undue influence or misuse of a position of trust, or where the female was underage and mentally defective, as these all involve strong elements of involuntariness. However, voluntary intercourse with a 12- or 13-year-old girl and voluntary sexual intercourse with a woman over 16 who was incapacitated seem less serious, and this gives a ranking of 3.

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) -- ORS 167.207(4)

Felony Class: A

Statutory Elements: Furnishing a narcotic or dangerous drug to a person
under 18 by an adult at least three years older

Subcategory 1 - rating of 4

...Furnishing heroin or opiate derivatives; or
...Sale for profit of any drug

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) (Continued)

Subcategory 2 - rating of 3

...Furnishing any other drug except those fitting in Subcategory 3

Subcategory 3 - rating of 2

...Furnishing less than one ounce of marijuana

Rationale: This treats transfer of addictive drugs or drug dealing with minors as more serious than normal and sales of less than an ounce of marijuana as less serious.

CRIMINAL ACTIVITY IN DRUGS (OTHER) -- ORS 167.207(1)

Felony Class: B

Statutory Elements: Manufacture, cultivation, sale or possession of any narcotic or dangerous drug (other than possession of less than one ounce of marijuana)

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

Rationale: This retains the rating of 3 for dealing in narcotics, which involves higher social damage than other drugs. It gives a rating of 2 for dealing in non-addictive drugs. Possession of any drug for own use is given a 1, as this primarily involves self-injury. Reliance, though not exclusive, is to be placed on the judicial sentencing findings to determine the above elements with the burden on the defendant to show manufacture or possession for own use.

BURGLARY II -- ORS 164.215

Felony Class: C

Statutory Elements: Any illegal entry, if not a Burglary I, with intent to commit a crime therein

BURGLARY II (Continued)

Subcategory 1 - rating of 3

...Theft or destruction of over \$5,000

Subcategory 2 - rating of 2

...Theft or destruction of between \$1,000 and \$5,000

Subcategory 3 - rating of 1

...Theft or destruction of less than \$1,000

Rationale: These are illicit entries which neither involve a dwelling nor a high risk (no gun) nor professionalism (no burglar's tools). Thus, they seem to be closely akin to simple theft (see below) and are treated as such.

THEFT I -- ORS 164.055

Felony Class: C

Statutory Elements: Theft involving:
more than \$200; or
during a riot or catastrophe; or
theft by receiving; or
of a livestock animal; or
of a firearm or explosive

Subcategory 1 - rating of 3

...Theft or receiving of over \$5,000

Subcategory 2 - rating of 2

...Theft or receiving of \$1,000 to \$5,000
...Theft of a firearm or explosive
...Theft of a livestock animal
...Theft during riot or catastrophe

Subcategory 3 - rating of 1

...Other thefts (i.e., thefts under \$1,000)

Rationale: This raises thefts of large amounts (over \$5,000) to a 3. It reduces relatively small thefts (less than \$1,000, but more than \$200).

THEFT OF SERVICES -- ORS 164.125

The breakdown should be the same as for ordinary Theft.

THEFT BY DECEPTION -- ORS 164.085

The breakdown should be the same as for ordinary Theft.

THEFT BY EXTORTION -- ORS 164.075

Felony Class: C

Statutory Elements: Extortion through threat of serious physical harm or
property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

Rationale: Extortion involving threats of serious personal injury is clearly
more serious.

COERCION -- ORS 163.275

Felony Class: C

Statutory Elements: Compelling another to act through threat of serious physical
harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

Rationale: Coercion involving threats of serious personal injury is clearly
more serious.

UNAUTHORIZED USE OF A MOTOR VEHICLE -- ORS 164.135

Felony Class: C

Statutory Elements: Joyriding, unauthorized exercise of control over vehicle

Subcategory 1 - rating of 2

...Loss, destruction or severe damage to vehicle or to property; or
...Injury to others

Subcategory 2 - rating of 1

...Other

Rationale: This reduces to 1 simple joyriding where the vehicle is recovered and no property damage is done to others and no one is hurt.

FORGERY I -- ORS 165.013

Felony Class: C

The breakdown should be based on the amounts involved in the same manner as theft.

Note: For this crime and other theft crimes, the amounts involved would be based on the amounts for which each defendant has been convicted or has admitted.

POACHING

Felony Class: 1

Subcategory 1 - rating of 2

...Poaching of game valued over \$3,000; or
...Commercial operation

Subcategory 2 - rating of 1

...Other

Rationale: This raises the rating to 2 for large-scale commercial poaching.

ESCAPE II -- ORS 162.155

Felony Class: C

Statutory Elements: Escape from custody where individual:
uses or threatens to use physical force; or
the confinement is due to a finding of guilt of a felony; or
escape is from a correctional facility

Subcategory 1 - rating of 2

...All cases of Escape except those fitting Subcategory 2

Subcategory 2 - rating of 1

...Escapes from a minimum custody situation in a correctional facility for
no more than 30 days (e.g., walkaways from Prison Farm, Work Release Center,
outside custody at OSP)

Rationale: Short-term walkaways from minimum custody situations are less
serious. However, they are of sufficient seriousness to be treated under
appropriate matrix ranges.

off

7-19-78

1 DIVISION 00

2 RULE MAKING PROCEDURE

3 Notice of Rule Making

4 254-00-001 Prior to the adoption, amendment, or repeal of any rule,
5 the Chairperson, Board of Parole, shall give notice of the proposed adoption,
6 amendment, or repeal:

7 (1) In the Secretary of State's Bulletin referred to in ORS 183.360
8 at least fifteen days prior to the effective date.

9 (2) By mailing a copy of the notice to persons on the Board of Parole
10 mailing list established pursuant to ORS 183.335(6).

11 (3) By mailing a copy of the notice to the following persons, organi-
12 zations or publications:

13 (a) Oregon State Bar Bulletin

14 (b) United Press International and Associated Press

15 (c) Regional Offices, Parole and Probation, State of Oregon Corrections

16 Division

17 (d) Oregon District Attorneys Association

18 (e) Oregon Criminal Defense Attorneys Association

19 (f) Multnomah County Public Defender

20 (g) Washington County Public Defender

21 (h) Lane County Public Defender

22 (i) Douglas County Public Defender

23 (j) Oregon Prisoners Legal Services Project

24 (k) University of Oregon Law School

25 (l) Lewis & Clark, Northwestern College of Law

26 (m) Willamette University College of Law

- 1 (n) American Civil Liberties Union
2 (o) Others upon formal written request of the Board of Parole
3 (4) Or by posting on bulletin boards and placing in the general reading
4 section of the libraries of the institutions of the Corrections Division.

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1 Contents of Notice of Rule Making When Public Hearings is Held

2 254-00-005 (1) When the agency gives notice of a public hearing
3 on proposed rule making as required by rule 254-00-001, the notice shall
4 include the following:

5 (a) A description of the agency's proposed action (adoption, amendment
6 or repeal of rule) and where practicable and appropriate setting forth verbatim
7 any rule proposed to be adopted, amended or repealed. (Lengthy rules must
8 be summarized and not set out verbatim.)

9 (b) The subject matter and purpose of the proposed action in sufficient
10 detail to inform a person that his/her interest may be affected.

11 (c) The time and place of the public hearing and the manner in which
12 interested persons may present their views.

13 (d) The address of the main office of the agency where public
14 inspection during regular business hours may be made of the written
15 statement required by ORS 183.335(7).

16 (e) A designation of the officer or governing body of the agency
17 or other person who will preside at and conduct the hearing.

18 (2) If the proposed rule, amendment or repeal thereof is not set forth
19 verbatim in the notice, the notice shall state the time, place and manner in
20 which a copy of the proposed rule or amendment may be obtained.

21
22 Statutory Authority: ORS Chapter 144

1 Contents of Notice of Rule Making When Public Hearing Will be Held Only
2 if Requested

3 254-00-010 (1) When the agency plans to hold a public hearing on
4 proposed rulemaking only if sufficient requests are received, the notice
5 required by rule 254-00-001 shall include the following:

6 (a) A description of the agency's proposed action (adoption, amendment
7 or repeal of rule) and where practicable and appropriate setting forth
8 verbatim any rule proposed to be adopted, amended or repealed. (Lengthy
9 rules must be summarized and not set out verbatim.)

10 (b) The subject matter and purpose of the proposed action in sufficient
11 detail to inform a person that his/her interest may be affected.

12 (c) The time and place at which data or views may be submitted in
13 writing to the agency.

14 (d) The address of the main officer of the agency where public inspec-
15 tion during regular business hours may be made of the written statement
16 required by ORS 183.335(7).

17 (e) A statement that any interested person desiring to express or
18 submit his/her data or views at a public hearing must request the opportunity
19 to do so.

20 (f) A designation and address of the person to whom a request for
21 public hearing must be submitted and the time which the request must be
22 submitted to be considered.

23 (g) A statement that a public hearing will be held if the agency
24 receives a request for public hearing within 15 days after agency notice
25 from 10 or more persons or an association having not less than 10 members.

26 (2) If the proposed rule, amendment or repeal thereof is not set forth

1 verbatim in the notice, the notice shall state the time, place and manner
2 in which the rule or amendment may be obtained.

3 (3) If 10 persons or an association having more than 10 members
4 request a public hearing, the agency shall give notice thereof in conformity
5 with rule 254-00-005.

6
7 Statutory Authority: ORS Chapter 144

1 Submitting Draft of Rule to Legislative Counsel

2 254-00-015 Prior to the adoption or amendment of a rule, including
3 temporary rules adopted under rule 254-00-050, the agency shall submit a draft
4 of the proposed action to Legislative Counsel.

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6 Statutory Authority: ORS Chapter 144

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1 Postponing Intended Action

2 254-00-020 (1) The agency shall postpone its intended action upon
3 request of an interested person received within 15 days after agency notice
4 to allow the requesting person an opportunity to submit data, views or
5 arguments concerning the proposed action.

6 (2) Postponement of the date of intended action shall be no less than
7 10 nor more than 90 days. In determining the length of postponement, the
8 agency shall consider the time necessary to give reasonable notice of the
9 postponement and the complexity of the subject and issues of the intended
10 action.

11 (3) The agency shall give notice of the postponement pursuant to rule
12 254-00-001 except that publication in the Secretary of State's bulletin is
13 only required when the publication date of the bulletin precedes the post-
14 ponement date of the intended action.

15 (4) This rule does not apply to the agency adopting a temporary rule
16 pursuant to ORS 183.335(5) and rule 254-00-050.

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18 Statutory Authority: ORS Chapter 144

1 Conduct of Hearing

2 254-00-025 (1) The hearing shall be conducted by and shall be under
3 the control of the presiding officer. The presiding officer may be the
4 chief administrative officer of the agency, its governing body or a
5 member thereof or any other person designated by the agency.

6 (2) At the commencement of the hearing, any person wishing to be
7 heard shall advise the presiding officer of his name, address and
8 affiliation. Additional persons may be heard at the discretion of the
9 presiding officer. The presiding officer shall provide an appropriate
10 form for listing witnesses which shall indicate the name of the witness,
11 whether the witness favors or opposes the proposed action, and such other
12 information as the presiding officer may deem appropriate.

13 (3) At the opening of the hearing the presiding officer shall
14 read the content of the notice provided in rule 254-00-005 or rule
15 254-00-010 as the case may be.

16 (4) Subject to the discretion of the presiding officer, the order
17 of the presentation shall be:

18 (a) Statement of proponents.

19 (b) Statement of opponents.

20 (c) Statements of any other witness present and wishing to be heard.

21 (5) The presiding officer or any member of the agency shall have
22 the right to question or examine any witness making a statement at the
23 hearing. The presiding officer may, in his/her discretion, permit other
24 persons to examine witnesses.

25 (6) There shall be no rebuttal or additional statements given by
26 any witness unless requested by the presiding officer. However, when such

1 additional statement is given, the presiding officer shall allow an
2 equal opportunity for reply.

3 (7) The hearing may be continued with recesses as determined by
4 the presiding officer until all listed witnesses present and desiring
5 to make a statement have had an opportunity to do so.

6 (8) The presiding officer shall, where practicable, receive all
7 physical and documentary evidence presented by witnesses. Exhibits shall
8 be marked and shall identify the witness offering the exhibit. The
9 exhibits shall be preserved by the agency for one year or, in the
10 discretion of the agency, returned to the witness offering the exhibit.

11 (9) The presiding officer may set reasonable time limits for oral
12 presentation and may exclude or limit cumulative, repetitious or imma-
13 terial matter.

14 (10) A verbatim oral, written or mechanical record may be made
15 of all the proceedings or, in the alternative, a record in the form of
16 minutes.

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18 Statutory Authority: ORS Chapter 144

1 Presiding Officer's Report

2 254-00-030 Upon request by the agency, the presiding officer shall,
3 within a reasonable time after the hearing, provide the agency with a
4 written summary of statements given and exhibits received and a report of
5 his observations of physical experiments, demonstrations or exhibits.
6 The presiding officer may make recommendations, but such recommendations
7 are not binding upon the agency.

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9 Statutory Authority: ORS Chapter 144

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1 Action of Agency

2 254-00-035 At the conclusion of the hearing, or after receipt of
3 the presiding officer's requested report and recommendation, if any,
4 the agency may adopt, amend or repeal rules covered by the statement
5 of intended action.

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7 Statutory Authority: ORS Chapter 144

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1 Notice of Agency Action; Certification to Secretary of State; Submitting
2 Copy to Legislative Counsel

3 254-00-040 (1) The agency shall file in the office of Secretary
4 of State a certified copy of each rule adopted or amended, or notice
5 of repeal of any rule together with the written statement required by
6 ORS 183.335(7).

7 (2) The agency shall submit a copy of the rule adopted or amended
8 to Legislative Counsel.

9 (3) The rule shall be effective upon filing with the Secretary of
10 State unless a later date is required by statute or is specified in the
11 rule.

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13 Statutory Authority: ORS Chapter 144

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1 Petition to Promulgate, Amend or Repeal Rule: Contents of Petition,
2 Filing of Petition

3 254-00-045 (1) An interested person may petition an agency request-
4 ing the adoption (promulgation), amendment or repeal of a rule. The
5 petition shall be in writing, signed by or on behalf of the petitioner,
6 and shall contain a detailed statement of:

7 (a) The rule petitioner requests the agency to promulgate, amend
8 or repeal. Where amendment of an existing rule is sought, the rule
9 shall be set forth in the petition in full with matter proposed to be
10 deleted therefrom enclosed in brackets and proposed additions thereto
11 shown by underlining or boldface.

12 (b) Ultimate facts in sufficient detail to show the reasons for
13 adoption, amendment or repeal of the rule.

14 (c) All propositions of law to be asserted by petitioner.

15 (d) Sufficient facts to show how petitioner will be affected by
16 adoption, amendment or repeal of the rule.

17 (e) The name and address of petitioner and of any other person
18 known by petitioner to be interested in the rule sought to be adopted,
19 amended or repealed.

20 (2) The petition, either in typewritten or printed form, shall be
21 deemed filed when received by the agency.

22 (3) Upon receipt of the petition, the agency:

23 (a) Shall mail a true copy of the petition together with a copy
24 of the applicable rules of practice to all parties named in the petition.
25 Such petition shall be deemed served on the date of mailing to the last
26 known address of the person being served.

1 (b) Shall advise petitioner that he has 15 days in which to submit
2 written views.

3 (c) May schedule oral presentation of petitioner's views if
4 petitioner makes a request therefor and the agency desires to hear
5 petitioner orally.

6 (d) Shall, within 30 days after date of submission of the petition,
7 either deny the petition or initiate rule making proceedings in accordance
8 with Division 00 of these rules.

9 (4) In the case of a denial of a petition to adopt, amend or repeal
10 a rule, the agency shall issue an order setting forth its reasons in
11 detail for denying the petition. The order shall be mailed to the
12 petitioner and all other persons upon whom a copy of the petition was
13 served.

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15 Statutory Authority: ORS Chapter 144

1 Temporary Rules

2 254-00-050 (1) The agency may proceed without prior notice or
3 hearing, or upon any abbreviated notice and hearing that is practicable,
4 to adopt a rule without the notice otherwise required by ORS chapter 183
5 and Division 00 of these rules. In such case the agency shall:

6 (a) Submit a draft of the rule to Legislative Counsel.

7 (b) Prepare a statement that the rule is necessary for the public
8 interest or the interest of the parties concerned and the reasons therefor.

9 (c) Take appropriate measures to make the temporary rule known to
10 the persons who may be affected.

11 (2) A temporary rule adopted in compliance with this rule becomes
12 effective immediately upon filing the rule with the Secretary of State
13 or at a designated later date. The statement required in (1)(b) must be
14 filed with the rule.

15 (3) Within 30 days following the adoption of a temporary rule
16 prepare the statement required by ORS 183.335(7) and file the statement
17 with the Secretary of State.

18 (4) The statement required by ORS 183.335(7), including the full
19 text of any material cited in the statement, shall be available for
20 public inspection during regular business hours at the main office of
21 the agency.

22 (5) A rule temporarily suspended shall regain effectiveness upon
23 expiration of the temporary period of suspension unless the rule is
24 repealed prior to the expiration of the temporary period.

25 (6) A temporary rule may be effective for no longer than 120 days.
26 No temporary rule may be renewed after it has been in effect 120 days. The

1 agency may, however, adopt an identical rule on notice in accordance
2 with Division 00 of these rules.

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4 Statutory Authority: ORS Chapter 144

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DIVISION 10
ORGANIZATION

Membership

254-10-006 The State Board of Parole shall consist of six persons:

Five voting members are appointed by the Governor. The Administrator of the Corrections Division who shall have no vote acts as advisor and liaison.

Statutory Authority: ORS Chapter 144

1 Chairperson [Chairman]

2 254-10-011 The chairperson [chairman] shall be a voting member of
3 the Board selected by a majority vote. The chairperson [chairman] shall [will]
4 have a minimum term of one year and may be removed prior to the end of his/her
5 term by a unanimous vote of the voting Board members.

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7 Statutory Authority: ORS Chapter 144

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1 Chairperson [Chairman]: Powers and duties

2 254-10-016 The chairperson [chairman] shall have the powers and duties
3 established by law and rules necessary for the performance of the office and
4 administration of the Board including:

5 (1) assign voting Board members to panels and appoint panel chairpersons
6 [chairmen],

7 (2) apportion matters to the panels and full Board for decision,

8 (3) reassign matters to different panels when required by law or
9 procedure,

10 (4) schedule business meetings and develop the agenda,

11 (5) inform the sentencing judge, district attorney, sheriff or arresting
12 agency of the prospective release of each offender and the conditions thereof,

13 (6) review administrative appeals,

14 (7) designate members to conduct hearings and reviews,

15 (8) appoint assistants for offenders when appropriate.

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17 Statutory Authority: ORS Chapter 144

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DIVISION 20

BUSINESS MEETINGS

Scheduling

254-20-005 Business meetings shall [will] be held as scheduled by the chairperson [chairman] or upon the request of at least two members.

Statutory Authority: ORS Chapter 144

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1 Quorum

2 254-20-010 A business meeting requires at least three of the
3 voting members of the Board.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-20-015 The business meeting shall [will] consider matters relating
3 to Board policy and administration raised by the agenda presented by the
4 chairperson [chairman] or by Board members.

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6 Statutory Authority: ORS Chapter 144

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1 Decision

2 254-20-020 Three votes are required to make a Board decision at a
3 business meeting.

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5 Statutory Authority: ORS Chapter 144

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DIVISION 30

PRISON TERM HEARINGS [PRELIMINARY HEARINGS]

Scheduling

254-30-005 Every prisoner [offender] initially incarcerated at any institution of the Corrections Division shall [will] be scheduled for a hearing within six months of admission.

(1) A prisoner incarcerated at any institution of the Corrections Division with a sentence of up to 12 months shall be scheduled for a hearing within 2 months of admission or as soon thereafter as practicable.

(2) A prisoner with a sentence of 12 to 36 months shall be scheduled for a hearing within 3 months of admission or as soon thereafter as practicable.

(3) A prisoner with a sentence of over 36 months shall be scheduled for a hearing within 4 months of admission or as soon thereafter as practicable.

(4) In no case shall a prisoner be scheduled for a hearing more than 6 months after admission.

Statutory Authority: ORS Chapter 144

1 Panel Size

2 254-30-010 A hearing panel shall consist of two or more voting
3 members of the Board.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-30-015 The panel may set a parole release [hearing] date [or deny
3 parole]. Prior to making a decision, the panel may continue the hearing
4 for a reasonable period of time, if necessary, to obtain additional informa-
5 tion. Such period of time may not exceed thirty days after the expiration
6 of six months from admission.

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8 Statutory Authority: ORS Chapter 144

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1 Decisions

2 254-30-020 The decision of a panel of two or three members must
3 be unanimous. In the absence of a unanimous decision, each panel member shall
4 [will] forward his/her recommendation to the chairperson [Board, and the matter
5 will be referred to the chairman] for reassignment. No matter so reassigned
6 shall be decided by fewer than three affirmative votes. This may be done
7 by another two-member panel reaching a unanimous decision in agreement with
8 a member of the prior panel. The decision becomes the decision of the Board
9 unless subject to full Board review pursuant to rule 254-40-025.

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11 Statutory Authority: ORS Chapter 144

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1 Appearance

2 254-30-025 No person, other than the offender, shall appear in
3 the offender's behalf unless the offender is incapable of presenting
4 his/her position due to language barriers or lack of mental capacity.
5 Assistance shall [will] be provided to offenders meeting this criteria
6 by persons recommended by the institution superintendent and appointed
7 by the chairperson [chairman] of the Board.

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9 Statutory Authority: ORS Chapter 144

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EXHIBIT G

Parole Violator Rerelease Considerations

Aggravation

Mitigation

Less than 6 months
to first difficulty.

More than 9 months to first dif-
ficulty.

Prior difficulty while on
parole or previous revocation.

No prior difficulty while
on parole.

Findings at the Morrissey
Hearing that new criminal
activity has occurred.

No basis to believe criminal
activity has occurred.

Resistance to parole supervision,
return to heavy alcohol or drug use,
possession of any weapon.

Cooperation with parole plan
until new difficulty.
No alcohol or drug abuse.

1 Offense Severity

2 254-30-030 (1) The Board shall [will] use the table in Exhibit A
3 to assess the seriousness of the offense and, subject to the exceptions
4 therein, shall [will] assign a severity rating from one to seven as set
5 forth in Exhibit A.

6 (2) Exceptions:

7 [(a) Any time a firearm is discharged or a person is seriously injured
8 by whatever means during commission of a felony, the offender will be
9 assigned a rating of not less than six.]

10 (a) [(b)] Multiple convictions with concurrent sentences shall [will]
11 be classified according to the crime bearing the highest rating.

12 (b) [(c)] Attempt (ORS 161.405) and Solicitation (ORS 161.435) [and
13 Conspiracy (ORS 161.450)] shall [will] be assigned a rating one category
14 less than the criminal activity intended; but Conspiracy shall be treated
15 as of the same severity as the actual crime.

16 (c) [(d)] Crimes not listed shall [will] be rated by comparison to
17 crimes listed on the table.

18 (d) When a prisoner is serving two or more consecutive sentences, the
19 term of imprisonment shall be the sum of the established ranges set forth
20 in Exhibit C under ORS 144.783(2).

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22 Statutory Authority: ORS Chapter 144

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1 Criminal History/Risk Assessment

2 254e30-031 The Board shall [will] use the table in Exhibit B to make a
3 criminal history/risk assessment and shall [will] assign a score from Zero to
4 11 as set forth in Exhibit B.

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6 Statutory Authority: ORS Chapter 144

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1 Parole Release [Hearing] Date [Set]

2 254-30-032 (1) The Board shall [will] set a parole release [hearing]
3 date within the parameters of the matrix in Exhibit C unless it finds aggra-
4 vation or mitigation under rule 254-30-033, or the statutory good time date
5 on the sentence imposed [sentence length] is shorter than the matrix range
6 [bracket]. In the latter case, the parole release date set shall be set at
7 six months less than the statutory good time date on a sentence of up to three
8 years; at nine months less than the statutory good time date on a sentence
9 between three and six years; and at twelve months less than any sentence
10 exceeding six years, unless the Board makes a finding pursuant to (2) of
11 this section. [In the latter case, the parole hearing date set will be
12 considered within the guidelines if the parole hearing date is set within
13 nine months of the statutory good time date.]

14 (2) The Board may choose not to set a parole release date (i.e., the
15 prisoner shall serve to the end of his/her sentence pursuant to ORS 421.120)
16 when the offense of commitment included particularly violent or otherwise
17 dangerous criminal conduct as defined by (a) of this section, or whose offense
18 was preceded by two or more convictions of a class A or class B felony or
19 whose record includes a psychiatric or psychological diagnosis of severe
20 emotional disturbance.

21 (a) Particularly violent or otherwise dangerous criminal conduct is
22 conduct which is not merely unpleasant or offensive, but exceeds aggravation
23 listed in rule 254-30-033 (1) (b). This is conduct of a type which manifests
24 indifference to the value of human safety or property (e.g., actions which
25 terrorize or inflict serious mental distress on a victim, as the rapist
26

1 who telephones the victim and threatens to repeat the crime; unusual or
2 protracted cruelty; multiple victims in a single or separate incident;
3 extremely high harm-loss, as the burglar who takes a stereo and proceeds
4 to destroy a large number of items left in the house with an axe; infliction
5 of serious physical injury, if not an element of the crime).

6 (b) When the Board chooses not to set a parole release date, it shall
7 clearly state on the record the facts and specific reasons for that decision.

8 (3) When the Board has set the parole release date for a prisoner, it
9 shall inform the sentencing court, the district attorney and, upon request,
10 the prisoner's counsel.

11 (4) The Board shall not set a parole release date for a dangerous
12 offender sentenced under ORS 161.725 and 161.735 if the record includes a
13 psychiatric or psychological diagnosis of a present severe emotional dis-
14 turbance (e.g., severe personality disorder).. The Board shall set a date
15 for a parole consideration hearing under the matrix guidelines in Exhibit C
16 and provisions for variations under rule 254-30-033.

17 (a) At this hearing, the Board shall not set a parole release date
18 unless the psychiatric or psychological report and the report of the
19 Correctional Institution executive officer, pursuant to ORS 144.228, reveal
20 that the severe emotional disturbance which has made the prisoner dangerous
21 is no longer present.

22 (b) If the disturbance is present, the Board may defer release to a
23 specified future time or refuse to set a release date under rule 254-30-050(6).

24 (c) Reviews shall be given dangerous offenders pursuant to rule 254-40-005
25 (1)(a). If, at the review, the psychiatric or psychological reports and the
26 executive officer's report reveal that the severe emotional disturbance which

1 has made the prisoner dangerous is no longer present, the Board shall review
2 the matter pursuant to rule 254-40-005 and set a parole release date according
3 to (1) of this rule and rule 254-30-033.

4 (5) For offense severity rating 7 offenses where the parole hearing
5 date was established prior to the implementation of these rules, the Board
6 may reset those parole hearing dates to the following minimum times to be
7 served:

8 Criminal History/Risk Assessment Score

9 <u>11-9</u>	<u>8-6</u>	<u>5-3</u>	<u>2-0</u>
10 <u>8 years</u>	<u>10 years</u>	<u>12 years</u>	<u>12 years</u>

11 (6) In determining the parole release date for a person convicted of
12 Escape, time on escape shall be inoperable. The time from the prisoner's
13 escape until the original parole release date shall be served in addition
14 to the appropriate range for the new offense.

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16 Statutory Authority: ORS Chapter 144
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1 Variations from the Ranges [Aggravation/Mitigation]

2 254-30-033 (1) The Board may depart from the parameters of the matrix
3 only upon making a specific finding that there is, by a preponderance of
4 the evidence, aggravation or mitigation which justifies departure from the
5 ranges. [written findings of aggravation or mitigation. Such findings
6 will be based on objective information satisfactory to the Board and under-
7 stood by the offender which leads to reasonable conclusions.] The Board
8 shall clearly state on the record the facts and specific reasons for
9 variation from the range.

10 (a) Information considered by the Board in determining whether aggravation
11 or mitigation exists shall be disclosed prior to the hearing, pursuant to
12 rule 254-30-042 and 254-30-043 to permit the prisoner an opportunity to respond
13 before the Board finds aggravation or mitigation.

14 (b) Usual, but not exclusive factors in aggravation or mitigation are
15 shown in Exhibit E [D]. The Board may consider circumstances not listed in
16 Exhibit E; however, such circumstances must be of a type which relate to
17 either the severity of the prisoner's offense, or the prisoner's criminal
18 history.

19 (c) Maximum upward or downward variations from a range permitted to
20 a panel are shown in Exhibit D.

21 (2) Where a panel, based upon its findings pursuant to (1) of this
22 section, is of the opinion that the aggravating or mitigating circumstances
23 are so substantial that a greater departure from the guideline range is
24 required than is indicated in Exhibit D, it shall refer the matter to the
25 full Board for consideration.

26 (a) The sole issue the full Board shall consider is whether the

1 aggravating or mitigating circumstances found by the panel are of such
2 consequence as to require departure from the applicable maximum variations
3 in Exhibit D.

4 (b) The Board shall clearly state on the record the facts and specific
5 reasons why the normal variation is insufficient.

6 (c) Affirmative votes of at least four members of the Board shall be
7 required to exceed the maximum variations in Exhibit D.

8 (3) If any of the aggravating or mitigating circumstances listed in
9 Exhibit E shall also constitute a defining element of the crime or subcategory
10 of the crime of which the prisoner was convicted, then such circumstance shall
11 not justify variation from the matrix.

12 (4) Plea Bargained Sentences: If the prisoner has pleaded guilty to
13 the crime or crimes of which he was convicted and more serious or other charges
14 have been dismissed, or other crimes have not been charged, then the Board
15 may deem it an aggravating or mitigating circumstance, allowing a variation
16 from the matrix pursuant to rule 254-30-033(1), if the Court has found, or
17 the Board finds, by a preponderance of the evidence, that the defendant's
18 actual criminal conduct was of a different degree of seriousness than the
19 crime of which he/she was convicted. In determining whether the conduct was
20 of a different degree of seriousness, the Board shall consult the rankings
21 of seriousness of crimes set forth in Exhibit A. In such cases, the Board
22 shall state the actual criminal conduct on the record.

23 (5) Sentence as Aggravating or Mitigation: The Board shall deem the
24 sentence an aggravating or mitigating circumstances, which allows a variation
25 from the matrix pursuant to rule 254-30-033, if the Board finds, by a preponderance
26 of the evidence, that such sentence and the reasons for the sentence stated on

1 the record by the sentencing judge pursuant to ORS 173.120(2) disclose:

2 (a) the presence of any aggravating or mitigating circumstances described
3 in subsections (3) or (4) above or Exhibit F;

4 (b) other reasons showing enhanced or reduced harm or risk of harm
5 involved in the criminal conduct, or enhanced or reduced culpability on the
6 part of the prisoner when committing such conduct.

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8 Statutory Authority: ORS Chapter 144

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1 Judicial Sentences [Recommendations]

2 254-30-034 When a judge imposes a minimum term of imprisonment upon
3 a prisoner pursuant to ORS 144.110(1), the Board shall not release the
4 prisoner before the minimum has been served except upon affirmative votes
5 of at least 4 members of the Board.

6 [The sentencing judge may make recommendations outside guideline
7 ranges. Such recommendations and the supporting reasons shall be sent to
8 the chairman, made a confidential part of the record, and considered at the
9 preliminary hearing.]

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11 Statutory Authority: ORS Chapter 144

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1 Judicial Sentences [Recommendations]

2 254-30-034 When a judge imposes a minimum term of imprisonment upon
3 a prisoner pursuant to ORS 144.110(1), the Board shall not release the
4 prisoner before the minimum has been served except upon affirmative votes
5 of at least 4 members of the Board.

6 [The sentencing judge may make recommendations outside guideline
7 ranges. Such recommendations and the supporting reasons shall be sent to
8 the chairman, made a confidential part of the record, and considered at the
9 preliminary hearing.]

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11 Statutory Authority: ORS Chapter 144

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1 Other Recommendations

2 254-30-035 Recommendations from police, District Attorneys, defense
3 attorneys, and other interested persons and agencies shall be considered
4 at the preliminary hearing [and be made a part of the confidential record].

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1 Notice

2 254-30-040 (1) The prisoner [offender] shall [will] be notified in
3 writing of his/her hearing and its purpose within a reasonable time before
4 the hearing is conducted.

5 (2) The prisoner [offender] shall [will] be notified in writing of his/her
6 parole release [hearing] date and reasons for the date [set] if it is outside
7 the established matrix.

8 (3) The prisoner [offender] shall [will] be notified in writing if
9 his/her established parole release [hearing] date is scheduled for recon-
10 sideration pursuant to rule 254-30-050.

11 (4) The prisoner [offender] shall [will] be given a written statement
12 of reasons if his/her established parole release [hearing] date is reset
13 under rule 254-30-050.

14 (5) The prisoner [offender] shall [will] be given written notice of
15 his/her right to administrative appeal of the decision under rules 254-80-005
16 and 254-80-010.

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18 Statutory Authority: ORS Chapter 144

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3 writing of his/her hearing and its purpose within a reasonable time before
4 the hearing is conducted.

5 (2) The prisoner [offender] shall [will] be notified in writing of his/her
6 parole release [hearing] date and reasons for the date [set] if it is outside
7 the established matrix.

8 (3) The prisoner [offender] shall [will] be notified in writing if
9 his/her established parole release [hearing] date is scheduled for recon-
10 sideration pursuant to rule 254-30-050.

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12 of reasons if his/her established parole release [hearing] date is reset
13 under rule 254-30-050.

14 (5) The prisoner [offender] shall [will] be given written notice of
15 his/her right to administrative appeal of the decision under rules 254-80-005
16 and 254-80-010.

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18 Statutory Authority: ORS Chapter 144

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1 Record

2 254-30-045 A record of the [preliminary] hearing and any and all
3 hearings pursuant to rule 254-30-050 shall [will] be kept by the Board for
4 at least two years. The record shall [will] contain:

5 (1) documents considered by the Board at the hearing;

6 (a) The chairperson of the panel shall initial and date such documents
7 in the Corrections Division files or which have been specially submitted
8 for the hearing and have been considered by the Board.

9 (b) Documents considered are subject to the provisions of rules
10 254-30-042 and 254-30-043. Documents considered but not disclosed under
11 these sections shall also be specifically noted as undisclosed.

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

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17 Statutory Authority: ORS Chapter 144

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1 Parole Release [Hearing] Date Resets

2 254-30-050 (1) An established parole release [hearing] date may be
3 reset to an earlier time upon recommendation of institution superintendent,
4 Chief of Field Services, or a Board member, and after the concurrence of a
5 voting majority of the Board. The provisions of rule 254-30-033 governing
6 downward variation shall apply to the majority's action.

7 (2) An established parole release [hearing] date may be reset to a
8 later date upon recommendation of an institution superintendent or a Board
9 member, and after the concurrence of a quorum of the Board, but only after
10 the prisoner [offender] has had an opportunity to appear pursuant to rule
11 254-30-005, et. seq. A prisoner [offender] may waive his/her right to
12 appear in writing or by voluntary absence from the institution.

13 [(3) No established parole hearing date may be reset without a written
14 statement of reasons.]

15 (3) When the Board is notified by the Administrator of the Corrections
16 Division that an extension of a prisoner's parole release date has been
17 recommended pursuant to the joint Parole Board and Corrections Division
18 rule on "Extension of Parole Release Dates," rule 254-30-055, it shall
19 conduct a hearing to determine whether the misconduct was serious. The
20 prisoner shall have the right to appear accorded in rule 254-30-005 et. seq.
21 (i.e., same procedures shall be followed).

22 (a) Serious misconduct is misconduct which the Board classifies within
23 one of the four categories listed in the joint Parole Board and Corrections
24 Division rule on "Extension of Parole Release Dates," rule 254-30-055.

1 (b) A prisoner may not relitigate facts which he/she has had a full
2 opportunity to contest and have been decided against him/her in other
3 forums.

4 (c) If the Parole Board does not find that all other disciplinary
5 options are inadequate to the seriousness of the misconduct, considering
6 the following factors: (1) effectiveness of the sanction as a disciplinary
7 measure, both to the inmate and to the general institution population,
8 (2) degree of hazard posed by the misconduct to human health and/or life,
9 institution security, or to property, (3) seriousness of the misconduct
10 had it been committed in the wider community, (4) circumstances of the mis-
11 conduct, and (5) the inmate's prior record of conduct, the Board may request
12 the prisoner be given another hearing before the institution disciplinary
13 committee originating the recommendation for reset, or choose not to reset the
14 parole release date.

15 (d) The Board shall clearly state on the record facts and specific
16 reasons for its decision.

17 (4) The Board may continue the parole hearing and order a psychiatric
18 examination when it appears that a severe emotional disturbance is present.
19 If there is a psychiatric or psychological diagnosis of present severe
20 emotional disturbance, the Board may defer release to a specified future
21 date or refuse to set a release date. In choosing not to set a parole release
22 date, rule 254-30-032 shall control.

23 (5) The Board shall clearly state on the record the facts and specific
24 reasons for the reset.

25 (6) The Board may suspend imposition of an extended parole release date upon
26 recommendation of an institution Disciplinary Committee.

1 Extension of Parole Release Dates

2 254-30-055 The procedures for recommendation of an extension of a
3 parole release date for serious institutional misconduct shall be as
4 follows:

5 (1) The institution Disciplinary Committee may recommend an extension
6 of an inmate's parole release date as a disciplinary sanction.

7 (2) Recommendation to extend a parole release date shall be made
8 according to the following guidelines:

9 (a) The inmate must be given an opportunity for a disciplinary
10 hearing and have been found to have violated an adopted rule governing
11 conduct.

12 (b) In no instance shall an extension of a parole release date be
13 recommended unless all other disciplinary options have been specifically
14 considered by the committee and deemed to be, individually and in combination,
15 inadequate to the seriousness of the misconduct in terms of the following
16 factors:

17 (i) effectiveness of the sanction as a disciplinary measure, both
18 to the inmate and to the general institution population;

19 (ii) Degree of hazard posed by the misconduct to human health and/or
20 life, institution security, or to property;

21 (iii) seriousness of the misconduct had it been committed in the
22 wider community;

23 (iv) circumstances of the misconduct; and,

24 (v) the inmate's prior record of conduct.

25 (3) A parole release date shall not be extended unless the misconduct
26 can be classified within one of the four following categories and then,

*forget
underlining*

1 (4) When the amount of time recommended for the parole release date
2 extension exceeds the inmate's sentence or statutory good time date, the
3 effect is to deny the possibility of parole. An extension in the parole
4 release date may not be beyond the inmate's maximum statutory release date.

5 (5) If serious misconduct occurs prior to the establishment of an
6 inmate's parole release date, and an extension to the parole release date would
7 be otherwise justified, the misconduct will be considered as aggravating
8 circumstances when the Board of Parole sets the release date. The super-
9 intendent is responsible for insuring delivery of this information, in a
10 timely manner, to the Chief of Release Services.

11 (6) If serious misconduct occurs after a parole has been ordered, and
12 an extension to the parole release date would be otherwise justified, the
13 misconduct will be immediately reported by the institution superintendent
14 responsible for ensuring that the Chairperson of the Board of Parole is
15 immediately notified of the misconduct, so that the Chairperson of the
16 Board of Parole can take immediate steps to cancel the parole order and
17 make arrangements for reestablishing the parole release date.

18 (7) The Disciplinary Committee may recommend that the imposition of the
19 sanction extending a parole release date be suspended subject to a period
20 of acceptable conduct in accordance with the Corrections Division rules
21 governing conduct.

22 (8) Before an extension of a parole release date is effective, the
23 Disciplinary Committee recommendation must be approved by the superintendent
24 of the institution, the Administrator of the Corrections Division, or his
25 designee, and the State Board of Parole under rule 254-30-050.

26 Statutory Authority: ORS Chapter 144

DIVISION 40

REVIEWS

Periodic [Statutory] Reviews

254-40-005 [In cases where the Board establishes a parole hearing date more than two years from the date of the current hearing, it shall also establish review dates every two years or less.]

(1) Reviews shall be conducted after four years have elapsed since the first Board hearing and every three years thereafter.

(a) Dangerous offenders sentenced under ORS 161.725 and 161.735 shall be seen every two years as required by statute.

(b) Aggravated murderers sentenced under ORS 163.095 shall be seen as required by statute.

(2) Reviews that have been scheduled prior to January 26, 1977, the effective date of the rules, shall be conducted as scheduled. Reviews scheduled subsequent to January 26, 1977 shall be rescheduled to comply with this rule.

Statutory Authority: ORS Chapter 144

1 Purpose

2 254-40-010 Reviews pursuant to rule 254-40-005 shall be conducted
3 to determine if anything exceptional has occurred or if there are additional
4 facts that were not known or could not be contemplated at the time of the
5 Prison Term hearing that would justify reconsideration of a parole release
6 date.

7 [The purpose of this review will be to determine whether modification of
8 the parole hearing date is appropriate under rule 254-30-050.]

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10 Statutory Authority: ORS Chapter 144

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1 Reopening Cases

2 254-40-012 The Board may reopen any case for reconsideration upon
3 formal written request of a prisoner or motion of a Board member if:

4 (1) Substantial new information which was unknown at the time of
5 the prison term hearing or could not be contemplated at that time has
6 been received; or

7 (2) Substantial information that a prisoner, or any other person,
8 willfully concealed or misrepresented information material to a prior Board
9 action has been received.

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11 Statutory Authority: ORS Chapter 144

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1 Interview

2 254-40-015 An interview shall [will] be conducted by one or more
3 voting members of the Board. In the event an interviewer determines that
4 modification of the parole hearing date is appropriate, the matter shall
5 [will] be referred to the full Board for review. No action shall be taken
6 in all other cases.

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8 Statutory Authority: ORS Chapter 144

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1 Appearance

2 254-40-020 (1) No person, other than the offender, shall appear in
3 the offender's behalf unless the offender is incapable of presenting his
4 position due to illiteracy, language barriers or lack of mental capacity.
5 Assistance will be provided to offenders meeting these criteria by persons
6 recommended by the institution superintendent and appointed by the chairperson
7 [chairman] of the Board.

8 (2) The prisoner [offender] may waive the personal appearance in
9 writing or by voluntary absence from the institution.

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11 Statutory Authority: ORS Chapter 144

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1 Full Board Review

2 254-40-025 (1) Whenever a panel conducts a hearing affecting a[n]
3 prisoner [offender] sentenced to life imprisonment, convicted of a crime
4 involving the death of a victim, whether or not the prosecution directly
5 charged the prisoner [offender] with causing the death of the victim, [and/or]
6 sentenced under ORS 161.725 and 161.735 as a dangerous offender, the decision
7 shall [will] be made by the full membership of the Board.

8 (2) Whenever a single member makes a recommendation affecting a[n]
9 prisoner [offender], the recommendation shall [will] be reviewed by the
10 full Board and decided by a majority vote of the Board.

11 (3) Whenever a minimum sentence imposed by a judge pursuant to
12 ORS 144.110 (1) exceeds the applicable matrix guideline range in Exhibit C.
13 plus the maximum variation from the range shown in Exhibit D, the case shall
14 be reviewed by the full membership of the Board at or following the hearing.
15 This rule shall apply to all sentences imposed after October 4, 1977.

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17 Statutory Authority: ORS Chapter 144

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1 Method

2 254-40-030 (1) Full Board reviews shall [will] be accomplished by the
3 Board without the presence of the prisoner [offender]:

4 (a) by circulating the prisoner's [offender's] record and a copy of
5 the member or panel's proposed action for individual members' comments and
6 votes, or

7 (b) by consideration at a business meeting providing all voting members
8 are present.

9 (2) Notwithstanding subsection (1), a prison term [preliminary] hearing
10 or a parole release hearing conducted by all five voting members of the Board
11 shall [will] satisfy the requirements of this section.

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13 Statutory Authority: ORS Chapter 144

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1 [Reviews of Parole Hearing Dates in Excess of 12 Years]

2 [254-40-035 In addition to the foregoing review procedures, an
3 offender who is (1) convicted of a crime involving the death of the
4 victim, whether or not the prosecution directly charged the person with
5 causing the death of the victim, (2) sentenced to life imprisonment, and/or
6 (3) sentenced under ORS 161.725 and 161.735 as a dangerous offender, and
7 who has a parole hearing date in excess of twelve years from his preliminary
8 hearing date, may request and will be granted a full Board hearing at his
9 next biennial review if he has served one-third and two-thirds, respectively,
10 of the period of incarceration set by the Board at the preliminary hearing
11 to determine whether modification of the parole hearing date is appropriate
12 under rule 254-30-050. Rules 254-40-015 and 254-40-025 are suspended for
13 the purpose of this type review.]

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DIVISION 50

PAROLE RELEASE [HEARINGS]

Parole Release Interviews [Consideration Hearings]

254-50-005 A[n] prisoner [offender] committed to the custody of the Corrections Division and incarcerated shall [will] be interviewed [given a hearing] to determine whether parole release will be granted on the date set [for a parole hearing by the Board] under rule 254-30-005 et. seq.

Statutory Authority: ORS Chapter 144

1 Conduct of Hearing [Panel]

2 254-50-010 Interviews [Parole hearings] shall [will] be conducted
3 by [panels of two] one or more voting members.

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5 Statutory Authority: ORS Chapter 144

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1 Actions

2 254-50-015 [The panel may order parole, set a new parole hearing
3 date, deny parole, or continue the hearing for a reasonable period of time.]

4 (1) During the interview the Board shall examine the prisoner's
5 parole plan, his psychological report, if any, and the record of his
6 conduct during confinement.

7 (2) Following an interview, a postponement of up to 90 days may be
8 ordered by a panel of the Board if it finds that the parole plan is
9 inadequate under rule 254-50-025.

10 (3) If a psychiatric or psychological diagnosis of present severe
11 emotional disturbance has been made with respect to the offender, a panel
12 may order a postponement of the scheduled release until a specified later
13 date or until the prisoner or institution presents evidence that the emotional
14 disturbance is over or in remission.

15 (4) If the prisoner has engaged in serious institutional misconduct
16 and the Board finds that a reset is in order, the period of postponement
17 shall be determined by reference to rule 254-30-050(5). Prior to any post-
18 ponement under (3) or (4) of this rule, the prisoner shall be provided a
19 hearing before at least two members of the Board. The prisoner shall have
20 the rights accorded in rule 254-30-025 et. seq.

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22 Statutory Authority: ORS Chapter 144

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1 Instate Parole Release Interview [Parole Hearing] Procedures

2 254-50-025 (1) Notice: At a reasonable time prior to a parole
3 release interview [hearing], the prisoner [offender] shall [will] be
4 notified at his/her place of confinement of the scheduled parole release
5 interview [hearing], and shall [will] advise the prisoner [offender] that
6 information may be provided to the Board in writing or by persons sending
7 written information to the Board.

8 (2) Disclosure of information considered by the Board shall be
9 governed by rules 254-30-042 and 254-30-043.

10 (3) Appearance: No person, other than the offender, shall appear
11 in the offender's behalf unless the offender is incapable of presenting
12 his/her position due to language barriers or lack of mental capacity. Assis-
13 tance will be provided to offenders meeting this criteria by persons recom-
14 mended by the superintendent and appointed by the chairperson [chairman]
15 of the Board.

16 (4) [(3)] Record: A record of any and all parole release interviews
17 [hearings] shall [will] be kept by the Board for at least two years. The
18 record shall [will] contain:

19 (a) documents considered by the Board at the interview [hearing];

20 (i) The chairperson of the panel or interviewer shall initial and date
21 such documents in the Corrections Division files or which have been specially
22 submitted for the hearing and have been considered by the Board.

23 (ii) Documents considered are subject to the provisions of rules
24 254-30-042 and 254-30-043. Documents considered but not disclosed under
25 these sections shall also be specifically noted as undisclosed.

26 (b) a record of the oral proceedings of the interview [hearing] with

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

4 (c) The Board shall examine the prisoner's plans for residence,
5 employment or other situation in the community prior to approving release.
6 An acceptable plan generally includes employment, school or other situation
7 and suitable residence; it may require treatment programs and prescribed
8 medication. If any portion of the plan is inadequate, the Board shall
9 specify the ways in which the plan is deficient and order deferral of the
10 prisoner's parole release. The Board may order release to a plan approved
11 by the Corrections Division or require resubmission of a verified plan to
12 the Board after 30 days. Total deferral shall not exceed 90 days from the
13 initial parole release date.

14 (d) The Board shall clearly state the facts and specific reasons for
15 its decision.

16 [(4) Notice of Order: After deliberation, the Board may notify the
17 offender orally of its decision at the parole hearing. The Board will provide
18 the offender with written notice of the decision within a reasonable time. The
19 oral notification may and the written notification will advise the offender of
20 the reason(s) for the decision, his right to administrative appeal under rule
21 254-80-005 and to judicial review under ORS 144.335.]

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23 Statutory Authority: ORS Chapter 144
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1 Out-of-State Parole Release Interview [Hearing] Procedures

2 254-50-030 An offender who is in the custody of the Corrections Division
3 who is housed in an out-of-state facility shall [will] receive a parole
4 release interview [hearing] in conformance with rule 254-50-025. [However,
5 the hearing may be conducted by conference telephone call.]

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7 Statutory Authority: ORS Chapter 144

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DIVISION 55

ORS 144.050

PAROLE CONSIDERATION HEARINGS

ORS 144.050 Parole Consideration Hearings

254-55-005 An offender confined in a jail facility as defined in ORS 144.050 for a period of six months or longer shall [will] be given a hearing upon the offender's written application, except that no such person shall [will] be considered for parole until four months of the sentence have been served.

Statutory Authority: ORS Chapter 144

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Panel

254-55-010 Parole hearings shall [will] be conducted by one voting member.

Statutory Authority: ORS Chapter 144

1 Actions

2 254-55-015 The member may order parole, set a new parole release
3 [hearing] date, or continue the hearing for a reasonable period of time.

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5 Statutory Authority: ORS Chapter 144

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1 Parole Hearing Procedure

2 254-55-025 The parole hearing shall [will] be conducted in conformance
3 to rule 254-50-025 [except that any assistant provided to the offender will
4 be recommended by the chief custodian of the jail facility and appointed by
5 the chairman of the Board].

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7 Statutory Authority: ORS Chapter 144

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DIVISION 60

PAROLE RESCISSION

Procedure

254-60-005 The Board may rescind a parole after it has been ordered but prior to release from custody by conducting a rehearing consistent with rules 254-50-025 or 254-50-030, upon recommendation of an institution superintendent, Chief of Field Services, or a Board member, and with the concurrence of three voting members. All parties will be given the written reasons for the action taken.

Statutory Authority: ORS Chapter 144

1 Suspension

2 254-60-010 The Chairperson [chairman] may on his/her own motion
3 suspend the release date of an offender. Suspension shall [will] be for
4 such time as is reasonably necessary to conduct the rescission hearing
5 and make a decision.

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7 Statutory Authority: ORS Chapter 144

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1 Parole Order Voided

2 254-60-015 An offender who voluntarily absents himself/herself
3 and is not available for a rescission hearing shall [will] have his/her
4 parole order voided by the chairperson [chairman]. The prisoner [offender]
5 shall [will] be scheduled for a rescission hearing when available at the
6 parent institution.

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8 Statutory Authority: ORS Chapter 144

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FILED
JUL 19 1978
NORMA 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 _____
State Board of Parole _____ on July 19, 1978 _____
(Agency) (Date)
to become effective July 19, 1978 _____
(Date)

The within matter having come before the State 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:
(List Rule Number(s) or Rule Title on Appropriate Lines Below)

Adopted: (New Rules)	<u>254-00-001; 254-00-005; 254-00-010; 254-00-015; 254-00-020;</u> <u>254-00-025; 254-00-030; 254-00-035; 254-00-040; 254-00-045;</u> <u>254-00-050; 254-30-055; 254-40-012; 254-70-001; 254-70-042;</u> <u>254-90-015; 254-90-020; Exhibit F, Exhibit G</u>	Temp. <input type="checkbox"/>	Perm. <input checked="" type="checkbox"/>
Amended: (Existing Rules)	<u>254-10-011; 254-10-016; 254-20-005; 254-20-020; 254-30-005;</u> <u>254-30-015; 254-30-020; 254-30-025; 254-30-030; 254-30-031;</u> <u>254-30-032; 254-30-033; 254-30-034; 254-30-035; 254-30-040;</u> <u>254-30-045; 254-30-050; 254-40-005; 254-40-010; 254-40-012;</u> <u>254-40-015; 254-40-020; 254-40-025; 254-40-030; 254-50-005; (see attachment)</u>		
Suspended: (Temporary Only)	_____		
Repealed: (Existing Rules)	<u>254-40-035</u>		

as Administrative Rules of the State Board of Parole _____
(Agency)

DATED this 19th day of July, 1978

By: *Chas Blalock*
(Authorized Signer)
Title: Chairperson, State Board of Parole

Statutory Authority: ORS Chapter 144
Subject Matter: (See attachment)

Statement of Need Attached: Yes No

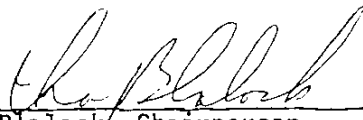
For Further Information Contact: Marc Sussman Phone: 378-2171

STATEMENT OF NEED
FOR PERMANENT RULES

These rules are being adopted pursuant to legislation passed by the 69th Legislative Session, ORS 144.775 et. seq.

The Board of Parole has acted in response to the recommendations of the Advisory Commission on Prison Terms and Parole Standards and has adopted these rules to structure discretion.

July 19, 1978
DATE


Ira Blalock, Chairperson
Oregon State Board of Parole

AMENDED RULES: (Continued)

254-50-010; 254-50-015; 254-50-025; 254-50-030; 254-55-005; 254-55-010;
254-55-015; 254-55-025; 254-60-005; 254-60-010; 254-60-015; 254-60-020;
254-70-005; 254-70-010; 254-70-015; 254-70-020; 254-70-030; 254-70-035;
254-70-040; 254-70-045; 254-80-005; 254-80-010; 254-90-005; 254-90-010;
Exhibit A; Exhibit B; Exhibit C; Exhibit D; Exhibit E.

SUBJECT MATTER:

The adoption of permanent rules establishing procedures for Parole Board rule making; reopening cases; procedures for extensions of parole release dates for institutional misconduct; placement of parolees in Community Correction Centers; disposition of parolees returned with new convictions.

Amendments to rules to clarify and de-sex certain language; defining procedures and guidelines for setting parole release dates at prison term hearings; varying from established guideline ranges for prison terms; resetting parole release dates; administrative reviews; granting or deferring parole release; future disposition hearings for parolees returned with new convictions; administrative appeals; extension of parole termination dates; modifying elements of matrix (i.e., offense severity ratings, history/risk score, and ranges of prison time to be served, plus maximum variations).

The repeal of a rule on reviews of parole hearing dates in excess of 12 years.

1 Basis for Rescission

2 254-60-020 At the hearing, the Board will take relevant, material,
3 and reliable information of the prisoner's [offender] misconduct which
4 causes the hearing to be held. [A decision] To rescind, the Board shall
5 clearly state the facts and reasons, including a statement of the misconduct,
6 for its decision to rescind [will indicate the misconduct] and set a new
7 parole release date or choose not to set a release date.

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9 Statutory Authority: ORS Chapter 144

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DIVISION 70

PAROLE REVOCATION

Parolee Placement in Community Corrections Centers

254-70-001 (1) A parolee who is having difficulty meeting the conditions of his/her parole or whose parole program is in jeopardy and who may be in danger of having his/her parole revoked, upon written consent may be placed in a Community Corrections Center pursuant to the Corrections Division "Rule on Procedures for Parolee Placement in Corrections Division Community Corrections Centers."

(2) A quorum of the Board must approve such placement when the parolee is to remain in a Community Corrections Center more than 30 days or before a second placement in a Community Corrections Center during a 12-month period.

(3) Voluntary termination of a parolee's placement in a Community Corrections Center shall not be grounds for revocation of parole.

Statutory Authority: ORS Chapter 144

1 Purpose

2 254-70-005 When the Board is informed and has reasonable grounds to
3 believe that a parolee has violated the conditions of his/her parole, these
4 procedures shall [will] be utilized to determine whether a violation of
5 condition(s) has occurred and whether parole should be continued, revoked
6 and reinstated, or revoked.

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8 Statutory Authority: ORS Chapter 144

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1 Suspension of Parole

2 254-70-010 Upon notice that a parolee has been arrested and detained
3 pursuant to ORS 144.350, or upon his/her own motion, the chairperson [chairman]
4 of the Board or his/her designee will initiate these procedures. Parole
5 suspension may be ordered pursuant to ORS 144.331.

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7 Statutory Authority: ORS Chapter 144

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1 Notice

2 254-70-015 Within a reasonable time before a hearing which may result
3 in the revocation of active parole status, the parolee shall be interviewed
4 and receive a notice containing the following information:

5 (1) A concise written statement of the alleged violations and the
6 evidence which forms the basis of the alleged violations.

7 (2) The parolee's right to a hearing and the time, place, and purpose
8 of the hearing.

9 (3) The names of the persons who have given adverse information upon
10 which the alleged violations are based and the right of the parolee to have
11 such persons present at the hearing for the purpose of confrontation and
12 cross-examination, unless it has been determined that there is good cause
13 for not revealing names nor allowing confrontation.

14 (4) The parolee's right to present letters, documents, affidavits, or
15 persons with relevant information at the hearing unless it has been determined
16 that informants would be subject to risk or harm if their identity were
17 disclosed.

18 (5) The parolee's right to subpoena under ORS 144.347, unless limited
19 by (3) or (4) above.

20 (6) The parolee's right to be represented by counsel, and, if indigent,
21 to have counsel appointed at state expense if the Board or its designated
22 representative determines, after request, that the request has merit in view
23 of the total situation, and it is claimed that:

24 (a) the parolee has not committed the alleged violation of parole
25 conditions; or

26 (b) even if the violation is a matter of public record or is uncontested,

1 there are substantial and complex reasons which make revocation inappropriate;
2 or

3 (c) the parolee, in doubtful cases, appears to be incapable of speaking
4 effectively for himself/herself.

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6 Statutory Authority: ORS Chapter 144

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1 Waiver

2 254-70-020 After notice as set out above, and full advice of rights
3 and procedure, the parolee may waive his/her right to a formal parole
4 violation hearing and elect to proceed informally at the initial interview:

5 (1) The parolee may or may not make a statement, written or, where
6 possible, oral, in which he/she may admit, not contest, or deny the alleged
7 violations, and may provide information supporting his/her retention of
8 active parole status in any case.

9 (2) The record of such informal proceeding shall include supporting
10 evidence, notice forms properly executed, and statements by parolee in
11 whatever form given, and shall be transmitted to the Board or its designated
12 representatives for review and preparation of proposed findings, recommenda-
13 tions and reasons under rule 254-70-030.

14 (3) Election to proceed informally includes waiver of right to
15 representation at all phases through Board decision, and of the right to
16 present witnesses and evidence not present during the interview.

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18 Statutory Authority: ORS Chapter 144

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1 Formal Hearings

2 254-70-025 Formal hearings may be conducted by a Board member or a
3 designated representative:

4 (1) Evidence: At formal hearings, the following material may be
5 received in evidence:

6 (a) oral testimony under oath,

7 (b) reports made in the course of official duty or professional
8 practice including, but not limited to, reports of law enforcement
9 officers, parole officers, social workers, doctors, and attorneys,

10 (c) documents which the Board determines to be relevant, material,
11 and reliable,

12 (d) if the Board determines evidence to be relevant, material, and
13 reliable, it shall not be excluded on the grounds of hearsay or lack of
14 opportunity for cross-examination,

15 (e) information adverse to the parolee may be received in evidence
16 without disclosure of the identity of the source of the information to the
17 parolee, if the Board or its representative determines there is good cause
18 for nondisclosure. The basis of the Board's or its representative's
19 determination shall be made a part of the record and shall be sealed.
20 This record shall only be available to the Board or a reviewing judicial body.

21 (2) Record of hearing: A record shall be made of the formal hearing
22 which shall include all evidence received and considered, and manual or
23 mechanical recording of all oral testimony and presentations.

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1 Findings, Recommendation, and Reasons for Recommendation

2 254-70-030 (1) Proposed: After either an informal or a formal
3 hearing, the parolee shall [will] be provided with proposed findings,
4 recommendation, and reasons for the recommendation. Unless he/she waives
5 this right, the parolee shall have 10 days from the date of mailing of the
6 proposed findings, recommendation, and reasons to file written exceptions
7 and arguments with the Board. Proposed findings are not required if the
8 hearing is conducted by a panel of the Board. If counsel has been requested
9 and denied, the proposed findings, recommendations and reasons shall [will]
10 reflect the grounds of the denial.

11 (2) Final: A majority of the Board may adopt the proposed findings,
12 recommendation, and reasons, may modify them, or may adopt other findings,
13 order, and reasons therefor. A copy of the final findings, order, and
14 reasons for order shall [will] be forwarded to the parolee with notice of
15 his/her right to administrative review pursuant to rule 254-80-005 and to
16 judicial review under ORS 144.335.

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18 Statutory Authority: ORS Chapter 144
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1 Revocation Procedures Where Parolee Out of State

2 254-70-035 When a parolee has left the state without permission,
3 or is in custody in a state to which he/she has not been paroled or is
4 in federal custody, his/her parole may be revoked and his/her return may be
5 ordered by the Board without any parole revocation proceedings. If
6 returned to any Corrections Division institution in this state, he/she
7 shall [will] be given a hearing under rule 254-70-045.

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9 Statutory Authority: ORS Chapter 144

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1 Parolee Receiving New Conviction

2 254-70-040 (1) A parolee who is convicted of any felony, or its
3 equivalent under Oregon laws, in any jurisdiction, may have parole revoked
4 by the Board without any proceeding other than receipt of proof of conviction.
5 An order revoking parole or other disposition shall [will] be sent by certified
6 mail to the parolee at his/her last known address and to the agency having
7 present custody.

8 (2) If an offender is returned to the custody of the Corrections
9 Division, he/she shall [will] be given a hearing under rule 254-70-045.

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11 Statutory Authority: ORS Chapter 144

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1 Return for Technical Violation

2 254-70-042 (1) A parolee revoked and returned after release with
3 an original crime severity of 1 through 5 shall serve four to six months
4 before rerelease unless aggravating or mitigating factors are present.

5 (2) A parolee revoked and returned after release with an original
6 crime severity of 6 or 7 shall serve six to ten months unless aggravating
7 or mitigating factors are present.

8 (3) Usual, but not exclusive factors in aggravation or mitigation
9 are shown in Exhibit G.

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11 Statutory Authority: CRS Chapter 144

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1 Future Disposition Hearing

2 254-70-045 (1) Purpose: Within a reasonable time after return to
3 Corrections Division confinement after parole is revoked, the Board shall
4 [will] schedule and conduct a hearing to establish future disposition of
5 the prisoner [offender]. This hearing shall be conducted under the
6 procedures of a parole hearing as provided in rule 254-50-015.

7 (2) Good Time After Revocation: Decisions regarding restoration
8 of institution good time, statutory and meritorious, earned but forfeited
9 upon parole shall [will] be made as follows:

10 (a) Good Time may be restored where the inmate was returned with a
11 new consecutive sentence, or where the Board denies further parole considera-
12 tion regardless of reason for return.

13 (b) The future disposition hearing shall [will] be scheduled early
14 in those cases where the institution is deferring program decisions until
15 after the issue of restoration is decided. In such cases, the superin-
16 tendent's request for an earlier future disposition hearing and good time
17 recommendation shall [will] initiate an accelerated hearing date.

18 (3) When a parolee is returned with a conviction for a new crime, a
19 new history/risk score reflecting the new conviction shall be calculated.

20 (a) In calculating the history/risk score, the original or former
21 conviction, incarceration and parole failure shall result in lost
22 points.

23 (b) The offense severity shall be assigned in accordance with the
24 most recent conviction(s) as set forth in Exhibit A.

25 (4) If the parolee's sentence on his/her new conviction is imposed
26 consecutive to the original or former commitment, the Board shall give

1 credit for the time served in the institution on the original or former
2 conviction.

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4 Statutory Authority: ORS Chapter 144

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1 DIVISION 80

2 ADMINISTRATIVE APPEAL

3 Method of Appeal

4 254-80-005 (1) Administrative appeal may be requested by a[n]
5 prisoner [offender] or a Board member [,] when the basis for the appeal
6 meets the criteria of the Board. The chairperson [chairman] shall
7 examine the request to ascertain whether or not it is [meritorious,]
8 consistent with the Board's criteria, as defined in rule 254-80-010, and
9 would have affected the decision. Should this examination satisfy the
10 above requirements, the chairperson [chairman] shall [will] remand the
11 case to the panel which heard it if possible. The appeal panel shall
12 [will] conduct a new hearing. If the requirements are not met, the
13 chairperson [chairman] shall [will] inform the prisoner [offender] in writing
14 that the prior decision remains in effect.

15 (2) If the chairperson was a member of a panel out of which an appeal
16 is generated and if the chairperson denies the appeal, he/she shall refer
17 the matter to a member who was not on the panel. In such cases, the member
18 may overrule the chairperson and call for a new hearing.

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20 Statutory Authority: ORS Chapter 144

1 Criteria for Appeal .

2 254-80-010 The basis for appeal must fall within one of the
3 following criteria:

4 (1) The written finding of the Board does not reflect the Board
5 action;

6 (2) Pertinent information was available at the time of the original
7 hearing which, through no fault of the prisoner [offender], was not
8 considered at the parole hearing;

9 (3) The action of the Board is inconsistent with its policies or
10 is contrary to law.

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12 Statutory Authority: ORS Chapter 144

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1 DIVISION 90

2 DISCHARGE

3 Discharge Generally

4 254-90-005 The following criteria and matrix shall [will] govern
5 tentative discharge dates to be announced as a part of the hearing wherein
6 parole is ordered and shall [will] be affixed to orders of parole:

7 (1) Criteria: During the term of active parole indicated in the
8 matrix, the parolee must show evidence of satisfactory parole adjustment.

9 (2) Matrix:

10 (a) One-year active parole:

11 (A) Categories 1 & 2: H/R 11-0

12 (B) Category 3: H/R 11-3

13 (C) Category 4: H/R 11-6

14 (b) Time incarcerated prior to parole order shall [will] equal time
15 on parole to tentative discharge:

16 (A) Category 3: H/R 2-0

17 (B) Category 4: H/R 5-0

18 (C) Category 5 & 6: H/R 11-0

19 Exception: Where time served exceeds 10 years, discharge may occur
20 after 10 years' active parole, or expiration, whichever is first. This does
21 not preclude early termination under rule 254-90-010(3) below.

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23 Statutory Authority: ORS Chapter 144

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1 Procedure

2 254-90-010 A minimum of 30 days prior to the tentative discharge
3 date affixed to the order of parole, the supervising officer shall [will]
4 prepare and send to the Board a supervisory report. This report shall
5 [will] recommend one of two courses:

6 (1) That the discharge certificate be forwarded to the supervising
7 officer for presentation to the parolee on the tentative discharge date
8 or the first prior business day. The supervising officer shall [will]
9 thereafter receive the certificate, shall [will] make presentation in
10 person or by certified mail at confirmed address, and shall [will] return
11 proof of presentation directly to the Board provided that no facts are
12 discovered between the submission of the supervising officer's report and
13 the discharge date which indicate discharge should not occur; or

14 (2) That the discharge not be granted on the tentative date. The
15 report shall [will] contain information showing that discharge is presently
16 incompatible with rule 254-90-005(1), shall [will] suggest a new discharge
17 date, and shall [will] explain why such extension is best for the parolee
18 and society. The Board shall [will] consider the recommendation in the same
19 manner as rule 254-40-030(1), and shall [will] notify the supervising
20 officer in writing of its decision and reasons therefor. The supervising
21 officer shall [will] then either receive, present, and return proof as in
22 (1) above, or shall [will] notify the parolee of the new discharge date and
23 reasons.

24 (3) Notwithstanding (1) and (2), in any case after expiration of
25 one year active parole when the supervising officer believes discharge should
26 precede the date affixed to the order of parole, he may notify the Board

1 with written reasons and recommendation. After consideration as in rule
2 254-40-030(1), the Board shall [will] either forward a discharge certificate
3 or a written explanation for denial of the request.

4 (4) In those discharge cases where the Board desires further
5 information on which to base its decision, it may dispatch a designated
6 representative or Board member to conduct a hearing in accordance with rule
7 254-70-025(1).

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9 Statutory Authority: ORS Chapter 144

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1 Extension of Parole Termination Dates

2 254-90-015 Parole termination dates may be extended according to the
3 following procedures:

4 (a) An extension of a parole termination date shall be made by the
5 State Board of Parole when an inmate is paroled with Good Time under
6 forfeiture.

7 (b) Each superintendent is responsible for notifying the State Board
8 of Parole of the amount of Good Time under forfeiture when an inmate is
9 scheduled to be considered for release on parole.

10 (c) The inmate with Good Time under forfeiture will have his/her parole
11 termination date extended by the amount of Good Time under forfeiture at the
12 time of release.

13 (d) The State Board of Parole will stipulate in the parole order the
14 amount of Good Time under forfeiture.

15
16 ORS Chapter 144

1 Reducing an Extended Parole Termination Date

2 254-90-020 An extended parole termination date may be reduced under
3 the following procedures:

4 (1) Supervising parole officers may make recommendations to the
5 Board of Parole to reduce an extended parole termination date on the basis
6 of the following factors:

7 (a) the various factors listed in rule 254-30-055(2)(b);

8 (b) the record of the inmate's conduct since the offense on which
9 the extension was based; and

10 (c) other factors which are exceptionally mitigating to the situation;

11 (2) The supervising parole officer is responsible for developing such
12 recommendations in consultation with the superintendent of the institution
13 from which the parolee was paroled.

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15 Statutory Authority: ORS Chapter 144

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EXHIBIT F

Outline for Parole Analysis Report

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

Recommendations

Section II:

Confidential data exempt from disclosure under ORS 192.500(2)(d)

OFFENSE RATING

[Coercion
[163.275 - Coercion 2]]

[Sexual Offenses
[163.355 - Rape III 2]
[163.365 - Rape II 4]
[163.375 - Rape I 6]
[163.385 - Sodomy III 2]
[163.395 - Sodomy II 4]
[163.405 - Sodomy I 6]
[163.425 - Sexual Abuse I 2]

[Family Offenses
[163.515 - Bigamy 1]
[163.525 - Incest 1]
[163.535 - Abandon Child 2]
[163.555 - Criminal Nonsupport 1]

[Theft Related
[164.055 - Theft I 2]
[164.065 - Theft: lost, mislaid 1]
[164.075 - Theft by Deception 1]
[164.095 - Theft by Receiving 2]
[164.125 - Theft of Services 1]
[164.135 - Unauthorized Use of Motor Vehicle 2]

[Burglary
[164.215 - Burglary II 2]
[164.225 - Burglary I 4]

[Arson
[164.315 - Arson II 2]
[164.325 - Arson I 5]
[164.365 - Criminal Mischief I 1]

[Robbery
[164.395 - Robbery III 2]
[164.405 - Robbery II 2]
[164.415 - Robbery I 5]

OFFENSE RATING

Forgery Related

[165.013 - Forgery I 2]
 [165.022 - Forged Instrument I 1]
 [165.032 - Forgery Device 1]
 [165.055 - Fraudulent Use of a Credit Card 1]
 [165.070 - Fraudulent Communication Device 1]

Business/Commercial

[165.085 - Sports Bribery 2]
 [165.090 - Sports Bribe Receiving 2]

Riot Related

[166.005 - Treason 7]
 [166.015 - Riot 2]

Firearms

[166.270 - Ex-Convict in Possession 2]
 [166.410 - Sale related 2]

Prostitution Related

[167.012 - Promoting Prostitution 1]
 [167.137 - Compelling Prostitution 3]

Gambling

[167.127 - Promoting Gambling 1]
 [167.137 - Possession of Gambling Records I 1]

Drugs Related

[167.207(1) - Criminal Activity in Drugs 3]
 [167.207(4) - Criminal Activity in Drugs 4]
 [167.212 - Tampering with Drug Records 1]
 [167.278 - Obtaining Drugs Unlawfully 1]

EXHIBIT A
Part I
Offense Severity Under Rule 30-030

OFFENSE	RATING	FELONY CLASS
<u>163.115 - Murder</u>	<u>7</u>	<u>A</u>
<u>166.005 - Treason</u>	<u>7</u>	<u>A</u>
<u>163.118 - Manslaughter I</u>	<u>6</u>	<u>A</u>
<u>163.235 - Kidnapping I</u>	<u>6</u>	<u>A</u>
<u>163.375 - Rape I (Subcategory 1)*</u>	<u>6</u>	<u>A</u>
<u>163.405 - Sodomy I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>164.415 - Robbery I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>163.185 - Assault I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>164.325 - Arson I (Subcategory 1)</u>	<u>6</u>	<u>A</u>
<u>163.185 - Assault I (Subcategory 2)</u>	<u>5</u>	<u>A</u>
<u>164.325 - Arson I (Subcategory 2)</u>	<u>5</u>	<u>A</u>
<u>164.415 - Robbery I (Subcategory 2)</u>	<u>5</u>	<u>A</u>
<u>162.165 - Escape I</u>	<u>5</u>	<u>B</u>
<u>164.225 - Burglary I (Subcategory 1)</u>	<u>5</u>	<u>A</u>
<u>163.175 - Assault II</u>	<u>4</u>	<u>B</u>
<u>163.225 - Kidnapping II</u>	<u>4</u>	<u>B</u>
<u>163.365 - Rape II (Subcategory 1)</u>	<u>4</u>	<u>B</u>
<u>163.395 - Sodomy II</u>	<u>4</u>	<u>B</u>
<u>164.225 - Burglary I (Subcategory 2)</u>	<u>4</u>	<u>A</u>
<u>167.017 - Compelling Prostitution</u>	<u>4</u>	<u>B</u>
<u>164.405 - Robbery II</u>	<u>4</u>	<u>B</u>
<u>167.207(4) - Criminal Activity in Drugs (Subcategory 1)</u>	<u>4</u>	<u>A</u>
<u>163.275 - Coercion (Subcategory 1)</u>	<u>4</u>	<u>C</u>
<u>164.075 - Theft by Extortion (Subcategory 1)</u>	<u>4</u>	<u>C</u>
<u>163.125 - Manslaughter II</u>	<u>3</u>	<u>B</u>
<u>162.015 - Bribe Giving</u>	<u>3</u>	<u>B</u>
<u>162.025 - Bribe Receiving</u>	<u>3</u>	<u>B</u>
<u>167.207(1) - Criminal Activity in Drugs (Subcategory 1)</u>	<u>3</u>	<u>B</u>
<u>163.425 - Sexual Abuse I</u>	<u>3</u>	<u>C</u>
<u>166.015 - Riot</u>	<u>3</u>	<u>C</u>
<u>164.225 - Burglary I (Subcategory 3)</u>	<u>3</u>	<u>A</u>
<u>163.365 - Rape II (Subcategory 2)</u>	<u>3</u>	<u>B</u>
<u>164.215 - Burglary II (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>164.055 - Theft I (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>164.125 - Theft of Services (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>164.085 - Theft by Deception (Subcategory 1)</u>	<u>3</u>	<u>C</u>
<u>165.013 - Forgery I (Subcategory 1)</u>	<u>3</u>	<u>C</u>

*Breakdowns for Broad-Scope Offense Categories are outlined in part two of Exhibit A.

OFFENSE	RATING	FELONY CLASS
<u>162.065 - Perjury</u>	<u>2</u>	<u>C</u>
<u>162.155 - Escape II (Subcategory 1)*</u>	<u>2</u>	<u>C</u>
<u>162.205 - Failure to Appear I</u>	<u>2</u>	<u>C</u>
<u>162.265 - Bribing a Witness</u>	<u>2</u>	<u>C</u>
<u>162.275 - Witness Receiving Bribe</u>	<u>2</u>	<u>C</u>
<u>163.145.- Criminally Negligent Homicide</u>	<u>2</u>	<u>C</u>
<u>163.205 - Criminal Mistreatment</u>	<u>2</u>	<u>C</u>
<u>163.257 - Custodial Interference I</u>	<u>2</u>	<u>C</u>
<u>163.275 - Theft by Coercion (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>163.355 - Rape III</u>	<u>2</u>	<u>C</u>
<u>163.385 - Sodomy III</u>	<u>2</u>	<u>C</u>
<u>163.535 - Abandon Child</u>	<u>2</u>	<u>C</u>
<u>164.055 - Theft I (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>164.095 - Theft by Receiving</u>	<u>2</u>	<u>C</u>
<u>164.135 - Unauthorized Use of a Motor Vehicle</u> <u>(Subcategory 1)</u>	<u>2</u>	<u>C</u>
<u>164.215 - Burglary II (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>164.315 - Arson II</u>	<u>2</u>	<u>C</u>
<u>164.395 - Robbery III</u>	<u>2</u>	<u>C</u>
<u>165.013 - Forgery I (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>- Assault III</u>	<u>2</u>	<u>C</u>
<u>167.207(4) - Criminal Activity in Drugs</u> <u>(Subcategory 3)</u>	<u>2</u>	<u>A</u>
<u>167.207(1) - Criminal Activity in Drugs</u> <u>(Subcategory 2)</u>	<u>2</u>	<u>A</u>
<u>164.125 - Theft of Services (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>164.075 - Theft by Deception (Subcategory 2)</u>	<u>2</u>	<u>C</u>
<u>165.095 - Sports Bribery</u>	<u>2</u>	<u>C</u>
<u>165.090 - Sports Bribe Receiving</u>	<u>2</u>	<u>C</u>
<u>166.270 - Ex-convict in Possession</u>	<u>2</u>	<u>C</u>
<u>166.410 - Sale related (firearms)</u>	<u>2</u>	<u>C</u>
<u>166.220 - Carrying Weapon With Intent to Use</u>	<u>2</u>	<u>C</u>
<u>167.012 - Promoting Prostitution</u>	<u>2</u>	<u>C</u>
<u>167.278 - Obtaining Drugs Unlawfully</u>	<u>2</u>	<u>B</u>
<u>162.185 - Supplying Contraband</u>	<u>1</u>	<u>C</u>
<u>162.325 - Hindering Prosecution</u>	<u>1</u>	<u>C</u>
<u>163.515 - Bigamy</u>	<u>1</u>	<u>C</u>
<u>163.525 - Incest</u>	<u>1</u>	<u>C</u>
<u>163.555 - Criminal Nonsupport</u>	<u>1</u>	<u>C</u>
<u>164.065 - Theft: Lost, Mislaid</u>	<u>1</u>	<u>C</u>
<u>164.075 - Theft by Deception (Subcategory 3)</u>	<u>1</u>	<u>C</u>
<u>164.125 - Theft of Services (Subcategory 3)</u>	<u>1</u>	<u>A -\$200 (Misd.)</u> <u>C +\$200</u>
<u>164.365 - Criminal Mischief I</u>	<u>1</u>	<u>C</u>
<u>165.022 - Forged Instrument I</u>	<u>1</u>	<u>C</u>
<u>165.032 - Forgery Device</u>	<u>1</u>	<u>C</u>
<u>165.055 - Fraudulent Use of a Credit Card</u>	<u>1</u>	<u>A -\$200 (Misd.)</u> <u>C +\$200</u>

OFFENSE	RATING	FELONY CLASS
<u>165.070 - Fraudulent Communication Device</u>	<u>1</u>	<u>C</u>
<u>167.127 - Promoting Gambling</u>	<u>1</u>	<u>C</u>
<u>167.137 - Possession of Gambling Records I</u>	<u>1</u>	<u>C</u>
<u>167.212 - Tampering with Drug Records</u>	<u>1</u>	<u>C</u>
- <u>Welfare Fraud</u>	<u>1</u>	<u>C</u>
- <u>Felony Traffic</u>	<u>1</u>	<u>C</u>
<u>133.723 - Interception of Communication</u>	<u>1</u>	<u>C</u>
<u>133.723 - Poaching (Salmon, probably 2)</u>	<u>1</u>	<u>C</u>
<u>167.207(1) - Criminal Activity in Drugs</u>		
<u>(Subcategory 3)</u>	<u>1</u>	<u>A</u>
<u>164.215 - Burglary II (Subcategory 3)</u>	<u>1</u>	<u>C</u>
<u>164.055 - Theft I (Subcategory 3)</u>	<u>1</u>	<u>C</u>
<u>164-135 - Unauthorized Use of a Motor Vehicle</u>		
<u>(Subcategory 2)</u>	<u>1</u>	<u>C</u>
<u>162.155 - Escape I (Subcategory 2)*</u>	<u>1</u>	<u>C</u>

Conspiracy shall be treated as having the same offense severity as the crime conspired to.

*See rule 254-30-032(6).

EXHIBIT A

Part II

Offense Seriousness Ratings:

- Subcategorization of Broad-Scope Offense Categories

RAPE I -- ORS 163.375

Felony Class: A

Statutory Elements: Forcible compulsion; or voluntary intercourse with female under 12; or incestuous voluntary intercourse with female under 16

Subcategory 1 - rating of 6

...Forcible compulsion (except if preexisting sexual relationship and no actual or attempted serious bodily harm); or
...Intercourse with female under 12

Subcategory 2 - rating of 5

...All other cases

Rationale: This reduces by one grade (to 5) cases of rape where there was a preexisting relationship and no serious injury was involved.

SODOMY I -- ORS 163.405

Sodomy I is the same as Rape I except that deviate sexual intercourse is involved. The breakdown should be the same as for Rape I.

ROBBERY I - ORS 164.415

Felony Class: A

Statutory Elements: Robbery involved either:
armed with a deadly weapon; or
uses or attempts to use dangerous weapon; or
causes or attempts to cause serious injury

ROBBERY I (Continued)

Subcategory 1 - level of 6

...All cases of Robbery I except those fitting Subcategory 2

Subcategory 2 - level of 5

Cases of robbery where the crime does not involve

...discharge of a firearm; or
...use of any other dangerous weapon; or
...explicit and immediate threats, by word or gesture (e.g., cocking hammer of
gun), of death or serious bodily harm; or
...serious injury

Rationale: This raises to a 6 the more serious cases of robbery, viz. where
there is use of a weapon, menacing or serious injury.

ASSAULT I -- ORS 163.185

Felony Class: A

Statutory Elements: Actual serious injury under circumstances evidencing
extreme indifference to human life

Subcategory 1 - level of 6

...All cases of Assault I except those fitting Subcategory 2

Subcategory 2 - level of 5

...Cases of Assault I in which the victim or victims provoked the crime to
a substantial degree, or other evidence that misconduct by victim contributed
substantially to the criminal episode.

Rationale: This raises unprovoked cases of Assault I to a 6.

ARSON I -- ORS 164.325

Felony Class: A

Statutory Elements: Arson involving either:
property of another which is customarily occupied by people; or
own property, if persons are endangered or if other customarily
occupied property is also endangered.

ARSON I (Continued)

Subcategory 1 - rating of 6

...Knowing the premises were occupied at time of act; or
...Actual serious injury

Subcategory 2 - rating of 5

...Other cases of Arson I

Rationale: This raises by one grade to 6 cases of arson where the arsonist either knew the premises were occupied or where serious injury actually resulted. Because of the actual injury or extreme risk involved in such cases, these seem to be more serious.

BURGLARY I -- ORS 164.225

Felony Class: A

Statutory Elements: Burglary involving either:
entry of a dwelling; or else
entry of a building, if defendant is armed/carries
burglar's tools/causes or threatens injury/or use of a
dangerous weapon

Subcategory 1 - rating of 5

Entry into any actually or regularly occupied building, whether a dwelling or non-dwelling, where defendant

...Used or threatened to use, by word or gesture, a dangerous weapon; and
...caused or threatened serious physical injury

Subcategory 2 - rating of 4

...Entry into a residence or temporary residence, except for cases fitting
Subcategory 3

Subcategory 3 - rating of 3

Entry into a residence or temporary residence in which

...Defendant is not armed with a deadly or dangerous weapon; and
...No extensive property damage; and
...Value of goods taken was below \$1,000

Rationale: This would give a level 5 to burglaries where the burglar threatens or seriously injures occupants. It would give a level of 4 to the more serious home burglaries not involving a weapon and confrontation, namely those in which the

BURGLARY I (Continued)

place was ransacked or valuable goods were taken. It would give a level 3 to the less serious home burglaries, namely those in which there was no weapon, no ransacking, and the goods taken were under \$1,000. A typical example would be an unarmed breaking and entry of a house while the occupants were absent, and theft of a television set. It would give a level of 3 also to cases not involving invasions of privacy (e.g., entry into a warehouse).

RAPE II -- ORS 163.365

Felony Class: B

Statutory Elements: Nonforcible intercourse involving:
incapacitated (e.g., mentally defective) female; or
female under 14 (i.e., 12 or 13)

Subcategory 1 - rating of 4

...All cases of Rape II except those fitting Subcategory 2

Subcategory 2 - rating of 3

...Not both under 16 and incapacitated; and
...No coercion or undue influence (e.g., father, step-father); and
...No position of trust (e.g., counselor, doctor)

Rationale: The rating of 4 seems appropriate for cases of statutory rape where there was coercion or undue influence or misuse of a position of trust, or where the female was underage and mentally defective, as these all involve strong elements of involuntariness. However, voluntary intercourse with a 12- or 13-year-old girl and voluntary sexual intercourse with a woman over 16 who was incapacitated seem less serious, and this gives a ranking of 3.

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) -- ORS 167.207(4)

Felony Class: A

Statutory Elements: Furnishing a narcotic or dangerous drug to a person under 18 by an adult at least three years older.

Subcategory 1 - rating of 4

...Furnishing heroin or opiate derivatives; or
...Sale for profit of any drug

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) (Continued)

Subcategory 2 - rating of 3

...Furnishing any other drug except those fitting in Subcategory 3

Subcategory 3 - rating of 2

...Furnishing less than one ounce of marijuana

Rationale: This treats transfer of addictive drugs or drug dealing with minors as more serious than normal and sales of less than an ounce of marijuana as less serious.

CRIMINAL ACTIVITY IN DRUGS (OTHER) -- ORS 167.207(1)

Felony Class: B

Statutory Elements: Manufacture, cultivation, sale or possession of any narcotic or dangerous drug (other than possession of less than one ounce of marijuana)

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

Rationale: This retains the rating of 3 for dealing in narcotics, which involves higher social damage than other drugs. It gives a rating of 2 for dealing in non-addictive drugs. Possession of any drug for own use is given a 1, as this primarily involves self-injury. Reliance, though not exclusive, is to be placed on the judicial sentencing findings to determine the above elements with the burden on the defendant to show manufacture or possession for own use.

BURGLARY II -- ORS 164.215

Felony Class: C

Statutory Elements: Any illegal entry, if not a Burglary I, with intent to commit a crime therein

BURGLARY II (Continued)

Subcategory 1 - rating of 3

...Theft or destruction of over \$5,000

Subcategory 2 - rating of 2

...Theft or destruction of between \$1,000 and \$5,000

Subcategory 3 - rating of 1

...Theft or destruction of less than \$1,000

Rationale: These are illicit entries which neither involve a dwelling nor a high risk (no gun) nor professionalism (no burglar's tools). Thus, they seem to be closely akin to simple theft (see below) and are treated as such.

THEFT I -- ORS 164.055

Felony Class: C

Statutory Elements: Theft involving:
more than \$200; or
during a riot or catastrophe; or
theft by receiving; or
of a livestock animal; or
of a firearm or explosive

Subcategory 1 - rating of 3

...Theft or receiving of over \$5,000

Subcategory 2 - rating of 2

...Theft or receiving of \$1,000 to \$5,000

...Theft of a firearm or explosive

...Theft of a livestock animal

...Theft during riot or catastrophe

Subcategory 3 - rating of 1

...Other thefts (i.e., thefts under \$1,000)

Rationale: This raises thefts of large amounts (over \$5,000) to a 3. It reduces relatively small thefts (less than \$1,000, but more than \$200).

THEFT OF SERVICES -- ORS 164.125

The breakdown should be the same as for ordinary Theft.

THEFT BY DECEPTION -- ORS 164.085

The breakdown should be the same as for ordinary Theft.

THEFT BY EXTORTION -- ORS 164.075

Felony Class: C

Statutory Elements: Extortion through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

Rationale: Extortion involving threats of serious personal injury is clearly more serious.

COERCION -- ORS 163.275

Felony Class: C

Statutory Elements: Compelling another to act through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

Rationale: Coercion involving threats of serious personal injury is clearly more serious.

UNAUTHORIZED USE OF A MOTOR VEHICLE -- ORS 164.135

Felony Class: C

Statutory Elements: Joyriding, unauthorized exercise of control over vehicle

Subcategory 1 - rating of 2

...Loss, destruction or severe damage to vehicle or to property; or
...Injury to others.

Subcategory 2 - rating of 1

...Other

Rationale: This reduces to 1 simple joyriding where the vehicle is recovered and no property damage is done to others and no one is hurt.

FORGERY I -- ORS 165.013

Felony Class: C

The breakdown should be based on the amounts involved in the same manner as theft.

Note: For this crime and other theft crimes, the amounts involved would be based on the amounts for which each defendant has been convicted or has admitted.

POACHING

Felony Class: 1

Subcategory 1 - rating of 2

...Poaching of game valued over \$3,000; or
...Commercial operation

Subcategory 2 - rating of 1

...Other

Rationale: This raises the rating to 2 for large-scale commercial poaching.

ESCAPE II -- ORS 162.155

Felony Class: C

Statutory Elements: Escape from custody where individual:
uses or threatens to use physical force; or
the confinement is due to a finding of guilt of a felony; or
escape is from a correctional facility.

Subcategory 1 - rating of 2

...All cases of Escape except those fitting Subcategory 2

Subcategory 2 - rating of 1

...Escapes from a minimum custody situation in a correctional facility for
no more than 30 days (e.g., walkaways from Prison Farm, Work Release Center,
outside custody at OSP)

Rationale: Short-term walkaways from minimum custody situations are less
serious. However, they are of sufficient seriousness to be treated under
appropriate matrix ranges.

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

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ITEM	SCORE
(A) No prior felony or misdemeanor convictions as an adult or juvenile:	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0 _____
(B) No prior <u>incarcerations</u> [commitments of 60 days or more] <u>(i.e., executed sentences of 90 days or more)</u> as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0 _____
(C) Age at first commitment of <u>90</u> [60] days or more:*	
26 or older	2
19 through 25	1
18 or younger:	0 _____
(D) Never escaped, failed parole or probation:**	2
One <u>incident of the above</u> [of the above items]:	1
<u>Any two or more incidents of the above</u> [of the above items]:	0 _____
(E) Has no admitted or documented heroin or opiate derivative abuse problem, or has no admitted or documented alcohol problem [alcohol or drug abuse program]:	1
One or more of the above [Otherwise]:	0 _____
(F) Verified [employment or full-time school attendance during 6 months of the last 24 months in the community or] <u>period of 5 years conviction free in the community:</u>	1
Otherwise:	0 _____
[Check the appropriate items, if:]	
[() Employment]	
[() School Attendance]	
[() Conviction-free Period]	

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

ITEM	SCORE
(A) No prior felony or misdemeanor convictions as an adult or juvenile:	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0 _____
(B) No prior 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) Age at first commitment of 90 days or more:*	
26 or older:	2
19 through 25:	1
18 or younger:	0 _____
(D) Never escaped, failed parole or probation:**	2
One incident of the above:	1
Any two or more incidents of the above:	0 _____
(E) Has no admitted or documented heroin or opiate derivative abuse problem, or has no admitted or documented alcohol problem:	1
One or more of the above:	0 _____
(F) Verified period of 5 years conviction free in the community:	1
Otherwise:	0 _____
TOTAL HISTORY/RISK ASSESSMENT SCORE:	=====

*If no prior commitment, use age at present conviction

**Count probation failure only if it resulted from new crime; count any parole failure

1 TOTAL HISTORY/RISK ASSESSMENT SCORE: _____

2 *If no prior commitment, use age at present conviction

3 **Count probation failure only if it resulted from new crime; count any
4 parole failure

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EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9 8-6 5-3 2-0
Excellent Good Fair Poor

OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	<u>≤6</u>	<u>≤6</u>	<u>6-12</u> <u>(4-8)*</u>	<u>12-22</u> <u>(8-18)</u>
Category 2 - - - - -	<u>≤6</u>	<u>6-10</u> <u>(4-8)</u>	<u>10-18</u> <u>(8-14)</u>	<u>18-28</u> <u>(14-24)</u>
Category 3 - - - - -	<u>6-10</u> <u>(4-8)</u>	<u>10-16</u> <u>(8-12)</u>	<u>16-24</u> <u>(12-20)</u>	<u>24-36</u> <u>(20-32)</u>
Category 4 - - - - -	<u>10-16</u> <u>(8-12)</u>	<u>16-22</u> <u>(12-18)</u>	<u>22-30</u> <u>(16-24)</u>	<u>30-48</u> <u>(24-42)</u>
Category 5 - - - - -	<u>18-24</u>	<u>24-30</u> <u>(20-26)</u>	<u>30-48</u> <u>(26-40)</u>	<u>48-72</u> <u>(40-62)</u>
Category 6 - - - - -	<u>36-48</u>	<u>48-60</u>	<u>60-86</u>	<u>86-144</u>
** Category 7 - - - - -	<u>10-14</u> <u>yrs.</u>	<u>14-19</u> <u>yrs.</u>	<u>19-24</u> <u>yrs.</u>	<u>24-Life</u> <u>yrs.</u>

* Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

** The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

	11-9	8-6	5-3	2-0
OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	[4-8	4-8	5-12 [(5-9)*	12-22] (9-14)]
Category 2 - - - - -	[4-8	5-10 [(5-9)	10-18 (9-14)	18-28] (14-28)]
Category 3 - - - - -	[5-10 [(5-9)	10-16 (9-14)	16-24 (14-18)	24-42] (18-24)]
Category 4 - - - - -	[10-16 [(9-14)	16-22 (14-18)	22-30 (18-24)	30-48] (24-36)]
Category 5 - - - - -	[16-22 [(14-18)	22-28 (18-22)	28-36 (22-30)	36-72] (30-56)]
Category 6 - - - - -	[24-48	36-60	48-84	60-144]
** Category 7 - - - - -	[10-14 [yrs.	12-20 yrs.	18-26 yrs.	24-life] yrs.]

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

**The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT C

Time to be Served Under Rule 30-032

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9	8-6	5-3	2-0
Excellent	Good	Fair	Poor

OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	≤6	≤6	6-12 (4-8)*	12-22 (8-18)
Category 2 - - - - -	≤6	6-10 (4-8)	10-18 (8-14)	18-28 (14-24)
Category 3 - - - - -	6-10 (4-8)	10-16 (8-12)	16-24 (12-20)	24-36 (20-32)
Category 4 - - - - -	10-16 (8-12)	16-22 (12-18)	22-30 (16-24)	30-48 (24-42)
Category 5 - - - - -	18-24	24-30 (20-26)	30-48 (26-40)	48-72 (40-62)
Category 6 - - - - -	36-48	48-60	60-86	86-144
** Category 7 - - - - -	10-14 yrs.	14-19 yrs.	19-24 yrs.	24-Life yrs.

* Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

** The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT D

Maximum Variations from the Ranges under Rule 30-033

	<u>11-9</u>	<u>8-6</u>	<u>5-3</u>	<u>2-0</u>
	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>
<hr/> <hr/>				
<u>OFFENSE SEVERITY</u>	<u>(All ranges in Categories 1-6</u>			
<u>RATING</u>	<u>shown in months)</u>			
<u>Category 1 - - - - -</u>	<u>±2</u>	<u>±2</u>	<u>±3</u>	<u>±4</u>
<u>Category 2 - - - - -</u>	<u>±2</u>	<u>±3</u>	<u>±4</u>	<u>±6</u>
<u>Category 3 - - - - -</u>	<u>±3</u>	<u>±4</u>	<u>±6</u>	<u>±8</u>
<u>Category 4 - - - - -</u>	<u>±4</u>	<u>±6</u>	<u>±8</u>	<u>±10</u>
<u>Category 5 - - - - -</u>	<u>±6</u>	<u>±8</u>	<u>±10</u>	<u>±14</u>
<u>Category 6 - - - - -</u>	<u>±12</u>	<u>±14</u>	<u>±18</u>	<u>±24</u>
<u>Category 7 - - - - -</u>	<u>±2 years</u>	<u>±2 years</u>	<u>±2 years</u>	<u>-2/NA</u>

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EXHIBIT D

Maximum Variations from the Ranges under Rule 30-033

11-9	8-6	5-3	2-0
Excellent	Good	Fair	Poor

OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	±2	±2	±3	±4
Category 2 - - - - -	±2	±3	±4	±6
Category 3 - - - - -	±3	±4	±6	±8
Category 4 - - - - -	±4	±6	±8	±10
Category 5 - - - - -	±6	±8	±10	±14
Category 6 - - - - -	±12	±14	±18	±24
Category 7 - - - - -	±2 years	±2 years	±2 years	-2/NA

[EXHIBIT D]

[Aggravation/Mitigation - Rule 30-033]

AGGRAVATIONMITIGATION

- | | |
|--|--|
| [Production or use of any weapon during the criminal episode.] | [Withdrawal insufficient to constitute a defense but indicative of lesser intent; or peripheral involvement in the episode.] |
| [Substantial property loss or damage during the episode; or criminal exploitation of a position of trust.] | [Amounts of money or property taken, lost or damaged were deliberately small.] |
| [Particularly vulnerable victims i.e., aged, handicapped, very young; or degree of any physical injury to any person during the episode; or threat or violence toward witnesses or other persons.] | [Victim or victims provoked the crime to a significant degree.] |
| [Ability to pay fines, restitution or costs and failure to do so.] | [Effort to make restitution or reparation.] |
| [More than one offense.] | [Cooperation with criminal justice agencies in resolution of other criminal activity.] |

EXHIBIT E

Aggravation/Mitigation - Rule 30-033

AGGRAVATION

Production or use of any weapon during the criminal episode.

Threat or violence toward witness(es) or victim(s).

Particularly vulnerable victims (i.e., aged, handicapped or very young).

Ability to make restitution or reparation and failure to do so.

Violation of position of public trust or of recognized professional ethics.

The degree of property loss, personal injury or threatened personal injury was substantially greater than is characteristic for the crime.

The crime involved multiple victims.

More than one concurrently imposed conviction, not arising out of the same criminal episode.

Verified instances of repetitive assaultive conduct.

Seriousness of new criminal conduct occurring on present probation.

Judge's sentence and reasons under rule 254-30-033(5) and plea bargained offenses under rule 254-30-033(4) may be considered as either an aggravating or mitigating circumstance.

MITIGATION

Victim or victims provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed substantially to criminal episode.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Effort to make restitution or reparation.

The degree of property loss, personal injury or threatened personal injury was substantially less than is characteristic for the crime.

Special efforts on the part of the perpetrator to minimize the harm and risk involved in the crime.

Peripheral involvement in the criminal episode (e.g., passive accessory).

Evidence of withdrawal, duress, necessity, lack of sustained criminal intent, or diminished mental capacity, e.g., mental retardation, which is insufficient to constitute a defense but is indicative of reduced culpability.

FILED
JUL 19 1978
NORMA 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 _____

State Board of Parole

on July 19, 1978

(Agency)

(Date)

to become effective _____

July 19, 1978

(Date)

The within matter having come before the _____ State 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:

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

Adopted:

(New Rules)

Temp.

Perm.

Amended:

(Existing Rules)

254-30-030; 254-30-032; 254-30-042; 254-40-012; 254-70-035;
254-90-005; 254-90-020; Exhibit A, Part I; Exhibit A, Part II;
Exhibit B

Suspended:

(Temporary Only)

Repealed:

(Existing Rules)

as Administrative Rules of the _____ State Board of Parole _____

(Agency)

DATED this 19th day of July, 1978

By: _____

(Authorized Signer)

Title: Chairperson, State Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Amendment of rules regarding offense severity; parole release dates; access to information; reopening cases; revocation procedures for out-of-state parolees; discharge parole; reducing extended parole termination dates; subcategorization of offense categories; and criminal history/risk assessment.

Statement of Need Attached: Yes No

For Further Information Contact: Marc Sussman

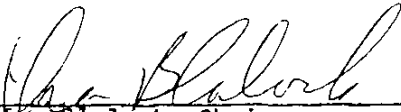
Phone: 378-2171

STATEMENT OF NEED
FOR TEMPORARY RULES

These rules are being amended in order that uniform definitions are adopted; to bring the rules into compliance with practical realities for establishment of release dates; to refine procedures for disclosure of material prepared prior to the adoption of the guidelines; to provide for reopening of cases where statutory changes have occurred; to bring revocation rules into compliance with case law; to allow for equitable establishment of discharge dates for offense category 7; and to expedite reductions in extended parole termination dates.

Failure to amend these rules on an emergency basis will introduce inequities and maintain procedures found lacking by the courts.

July 19, 1978
DATE


Ira Blalock, Chairperson
State Board of Parole

Offense Severity

254-30-030 (1) The Board shall use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, shall assign a severity rating from one to seven as set forth in Exhibit A.

(2) Exceptions:

(a) Multiple convictions with concurrent sentences shall be classified according to the crime bearing the highest rating.

(b) Attempt (ORS 161.405) and Solicitation (ORS 161.435) shall be assigned a rating one category less than the criminal activity intended; but Conspiracy shall be treated as of the same severity as the actual crime.

(c) Crimes not listed shall be rated by comparison to crimes listed on the table.

(d) When a prisoner is serving two or more consecutive sentences, the term of imprisonment shall be the sum of the established ranges set forth in Exhibit C under ORS [144.783(2)] 144.785(2).

(3) Serious physical injury as used in these rules shall mean 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.

(4) Harm-loss as used in these rules refers to the actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.

Statutory Authority: ORS Chapter 144

Parole Release Date

254-30-032 (1) The Board shall set a parole release date within the parameters of the matrix in Exhibit C unless it finds aggravation or mitigation under rule 254-30-033, or the statutory good time date on the sentence imposed is shorter than the matrix range. In the latter case, the parole release date set shall be set at six months less than the statutory good time date on a sentence of [up to] more than one but less than three years; at nine months less than the statutory good time date on a sentence between three and six years; and at twelve months less than any sentence exceeding six years, unless the Board makes a finding pursuant to (2) of this section.

(2) The Board may choose not to set a parole release date (i.e., the prisoner shall serve to the end of his/her sentence pursuant to ORS 421.120) when the offense of commitment included particularly violent or otherwise dangerous criminal conduct as defined by (a) of this section, or whose offense was preceded by two or more convictions of a class A or class B felony or whose record includes a psychiatric or psychological diagnosis of severe emotional disturbance.

(a) Particularly violent or otherwise dangerous criminal conduct is conduct which is not merely unpleasant or offensive, but exceeds aggravation listed in rule 254-30-033 (1) (b). This is conduct of a type which manifests indifference to the value of human safety or property (e.g., actions which terrorize or inflict serious mental distress on a victim, as the rapist who telephones the victim and threatens to repeat the crime; unusual or protracted cruelty; multiple victims in a single or separate incident; extremely high harm-loss, as the burglar who takes a stereo and proceeds to destroy a large number of items left in the house with an axe; infliction of serious physical injury, if not an element of the crime).

(b) 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.

(3) When the Board has set the parole release date for a prisoner, it shall inform the sentencing court, the district attorney and, upon request, the prisoner's counsel.

(4) The Board shall not set a parole release date for a dangerous offender sentenced under ORS 161.725 and 161.735 if the record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance (e.g., severe personality disorder). The Board shall set a date for a parole consideration hearing under the matrix guidelines in Exhibit C and provisions for variations under rule 254-30-033.

(a) At this hearing, the Board shall not set a parole release date unless the psychiatric or psychological report and the report of the Correctional Institution executive officer, pursuant to ORS 144.228, reveal 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 refuse to set a release date under rule 254-30-050(6).

(c) Reviews shall be given dangerous offenders pursuant to rule 254-40-005 (1)(a). If, at the review, the psychiatric or psychological reports and the executive officer's report reveal that the severe emotional disturbance which has made the prisoner dangerous is no longer present, the Board shall review the matter pursuant to rule 254-40-005 and set a parole release date according to (1) of this rule and rule 254-30-033.

(5) For offense severity rating 7 offenses where the parole hearing date was established prior to the implementation of these rules, the Board may reset those parole hearing dates to the following minimum times to be served:

Criminal History/Risk Assessment Score

11-9	8-6	5-3	2-0
8 years	10 years	12 years	12 years

(6) In determining the parole release date for a person convicted of Escape, time on escape shall be inoperable. The time from the prisoner's escape until the original parole release date shall be served in addition to the appropriate range for the new offense.

Statutory Authority: ORS Chapter 144

Access to Information

254-30-042 (1) In accordance with ORS 192.500(2)(d), inmates will have access to written materials, other than psychiatric or psychological reports, which the State Board of Parole shall consider with respect to the inmate's release on parole, with the following exceptions:

(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) Inmates will have access to psychiatric and psychological reports which are considered by the Board in a hearing concerned with the release or parole of an inmate, 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 inmate 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 information is denied, a written statement of the denial, and the reasons for it, must be entered into the inmate's record.

(5) Written materials subject to disclosure, to be considered by the Board, will be sent to the inmate at the same time the material is made available to the State Board of Parole.

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

Statutory Authority: ORS Chapter 144

Reopening Cases

254-40-012 The Board may reopen any case for reconsideration upon formal written request of a prisoner or motion of a Board member if:

(1) Substantial new information which was unknown at the time of the prison term hearing or could not be contemplated at that time has been received; or

(2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information material to a prior Board action has been received.

(3) Statutory changes have reclassified the criminal conduct involved (e.g., reduction of certain categories of Murder to Manslaughter, creation of degrees of Manslaughter).

Statutory Authority: ORS Chapter 144

Revocation Procedures Where Parolee Out of State

254-70-035 [When a parolee has left the state without permission, or is in custody in a state to which he/she has not been paroled or is in federal custody, his/her parole may be revoked and his/her return may be ordered by the Board without any parole revocation proceedings. If returned to any Corrections Division institution in this state, he/she shall be given a hearing under rule 254-70-045.]

(1) When a parolee is in federal custody, or has left the state to which he/she was paroled without permission and is in custody in another state, the Board may suspend his/her parole and order his/her return without prior parole revocation proceedings.

(2) When a parolee has absconded from supervision, the Board may suspend his/her parole and order his/her return without prior parole revocation proceedings.

(3) Upon the parolee's return to any Corrections Division institution in this state, he/she shall be given a hearing under the provisions of rules 254-70-015 through 254-70-030.

Statutory Authority: ORS Chapter 144

Discharge Generally

254-90-005 The following criteria and matrix shall govern tentative discharge dates to be announced as a part of the hearing wherein parole is ordered and shall be affixed to orders of parole:

(1) Criteria: During the term of active parole indicated in the matrix, the parolee must show evidence of satisfactory parole adjustment.

(2) Matrix:

(a) One-year active parole:

(A) Categories 1 and 2: H/R 11-0

(B) Category 3: H/R 11-3

(C) Category 4: H/R 11-6

(b) Time incarcerated prior to parole order shall equal time on parole to tentative discharge:

(A) Category 3: H/R 2-0

(B) Category 4: H/R 5-0

(C) [Category 5 & 6] Categories 5, 6 and 7: H/R 11-0

Exception: Where time served exceeds 10 years, discharge may occur after 10 years active parole, or expiration, whichever is first. This does not preclude early termination under rule 254-90-010(3) below.

Statutory Authority: ORS Chapter 144

Reducing an Extended Parole Termination Date

254-90-020 An extended parole termination date may be reduced under the following procedures:

(1) Supervising parole officers may make recommendations to the Board of Parole to reduce an extended parole termination date on the basis of the following factors:

(a) the various factors listed in rule 254-30-055(2)(b);

(b) the record of the inmate's conduct since the offense on which the extension was based; and

(c) other factors which are exceptionally mitigating to the situation[;]_

(2) The supervising parole officer is responsible for developing such recommendations [in consultation with the superintendent of the institution from which the parolee was paroled] under Field Services procedures.

Statutory Authority: ORS Chapter 144

EXHIBIT A

Part I

Offense Severity Under Rule 30-030

OFFENSE	RATING	FELONY CLASS
163.115 - Murder	7	A
166.005 - Treason	7	A
163.118 - Manslaughter I	6	A
163.235 - Kidnapping I	6	A
163.375 - Rape I (Subcategory 1)*	6	A
163.405 - Sodomy I (Subcategory 1)	6	A
164.415 - Robbery I (Subcategory 1)	6	A
163.185 - Assault I (Subcategory 1)	6	A
164.325 - Arson I (Subcategory 1)	6	A
163.185 - Assault I (Subcategory 2)	5	A
164.325 - Arson I (Subcategory 2)	5	A
164.415 - Robbery I (Subcategory 2)	5	A
162.165 - Escape I	5	B
164.225 - Burglary I (Subcategory 1)	5	A
163.175 - Assault II	4	B
163.225 - Kidnapping II	4	B
163.365 - Rape II (Subcategory 1)	4	B
163.395 - Sodomy II	4	B
164.225 - Burglary I (Subcategory 2)	4	A
167.017 - Compelling Prostitution	4	B
164.405 - Robbery II	4	B
167.207(4) - Criminal Activity in Drugs (Subcategory 1)	4	A
163.275 - Coercion (Subcategory 1)	4	C
164.075 - Theft by Extortion (Subcategory 1)	4	C
163.125 - Manslaughter II	3	B
162.015 - Bribe Giving	3	B
162.025 - Bribe Receiving	3	B
167.207(1) - Criminal Activity in Drugs (Subcategory 1)	3	B
163.425 - Sexual Abuse I	3	C
166.015 - Riot	3	C

OFFENSE	RATING	FELONY CLASS
164.225 - Burglary I (Subcategory 3)	3	A
163.365 - Rape II (Subcategory 2)	3	B
164.215 - Burglary II (Subcategory 1)	3	C
164.055 - Theft I (Subcategory 1)	3	C
164.125 - Theft of Services (Subcategory 1)	3	C
164.085 - Theft by Deception (Subcategory 1)	3	C
165.013 - Forgery I (Subcategory 1)	3	C
162.065 - Perjury	2	C
162.155 - Escape II (Subcategory 1)*	2	C
162.205 - Failure to Appear I	2	C
162.265 - Bribing a Witness	2	C
162.275 - Witness Receiving Bribe	2	C
163.145 - Criminally Negligent Homicide	2	C
163.205 - Criminal Mistreatment	2	C
163.257 - Custodial Interference I	2	C
163.275 - Theft by Coercion (Subcategory 2)	2	C
163.355 - Rape III	2	C
163.385 - Sodomy III	2	C
163.535 - Abandon Child	2	C
164.055 - Theft I (Subcategory 2)	2	C
164.095 - Theft by Receiving	2	C
164.135 - Unauthorized Use of a Motor Vehicle (Subcategory 1)	2	C
164.215 - Burglary II (Subcategory 2)	2	C
164.315 - Arson II	2	C
164.395 - Robbery III	2	C
165.013 - Forgery I (Subcategory 2)	2	C
163.175 - Assault III	2	C
167.207(4) - Criminal Activity in Drugs (Subcategory 3)	2	A
167.207(1) - Criminal Activity in Drugs (Subcategory 2)	2	A
164.125 - Theft of Services (Subcategory 2)	2	C
164.075 - Theft by Deception (Subcategory 2)	2	C
165.095 - Sports Bribery	2	C
165.090 - Sports Bribe Receiving	2	C
166.270 - Ex-convict in Possession	2	C
166.410 - Sale related (firearms)	2	C
166.220 - Carrying a Weapon With Intent to Use	2	C
167.012 - Promoting Prostitution	2	C
167.278 - Obtaining Drugs Unlawfully	2	B
<u>496.992(3) - Poaching (Subcategory 1)</u>	<u>2</u>	<u>C</u>

*See rule 254-30-032(6).

OFFENSE	RATING	FELONY CLASS
162.185 - Supplying Contraband	1	C
162.325 - Hindering Prosecution	1	C
163.515 - Bigamy	1	C
163.525 - Incest	1	C
163.555 - Criminal Nonsupport	1	C
164.065 - Theft: Lost, Mislaid	1	C
164.075 - Theft by Deception (Subcategory 3)	1	C
164.125 - Theft of Services (Subcategory 3)	1	A -\$200 (Misd.) C +\$200
164.365 - Criminal Mischief I	1	C
165.022 - Forged Instrument I	1	C
165.032 - Forgery Device	1	C
165.055 - Fraudulent Use of a Credit Card	1	A -\$200 (Misd.) C +\$200
165.070 - Fraudulent Communication Device	1	C
167.127 - Promoting Gambling	1	C
167.137 - Possession of Gambling Records I	1	C
167.212 - Tampering with Drug Records	1	C
- Welfare Fraud	1	C
- Felony Traffic	1	C
133.723 - Interception of Communication [133.723 - Poaching (Salmon, probably 2)]	1	C
496.992(3) - Poaching (Subcategory 2)	1	C
167.207(1) - Criminal Activity in Drugs (Subcategory 3)	1	A
164.215 - Burglary II (Subcategory 3)	1	C
164.135 - Unauthorized Use of a Motor Vehicle (Subcategory 2)	1	C
162.155 - Escape I (Subcategory 2)*	1	C

Conspiracy shall be treated as having the same offense severity as the crime conspired to.

*See rule 254-30-032(6).

EXHIBIT A

Part II

Offense Seriousness Ratings:
Subcategorization of Broad-Scope Offense Categories

RAPE I -- ORS 163.375

Felony Class: A

Statutory Elements: Forcible compulsion; or voluntary intercourse with female under 12; or incestuous voluntary intercourse with female under 16

Subcategory 1 - rating of 6

...Stranger to stranger; aggravated custodial interference; breaking and entering; threat to use or use of a weapon; or actual or attempted serious bodily or emotional harm; or
...Intercourse with female under 12

Subcategory 2 - rating of 5

...All other cases

[Rationale: This recognizes relative degrees of seriousness of violation based on injury, violence, surprise, identity of parties, and the extent of the invasion of victim's privacy.]

SODOMY I -- ORS 163.405

[Sodomy I is the same as Rape I except that deviate sexual intercourse is involved. The breakdown should be the same as for Rape I.] Sodomy I should be broken down in the same manner as Rape I.

ROBBERY I -- ORS 164.415

Felony Class: A

Statutory Elements: Robbery involved either:
armed with a deadly weapon; or
uses or attempts to use dangerous weapon; or
causes or attempts to cause serious injury

ROBBERY I (Continued)

Subcategory 1 - level of 6

...All cases of Robbery I except those fitting Subcategory 2

Subcategory 2 - level of 5

Cases of robbery where the crime does not involve

- ...discharge of a firearm; or
- ...use of any other dangerous weapon; or
- ...explicit and immediate threats, by word or gesture (e.g., cocking hammer of gun), of death or serious bodily harm; or
- ...serious injury

[Rationale: This raises to a 6 the more serious cases of robbery, viz. where there is use of a weapon, menacing or serious injury.]

ASSAULT I -- ORS 163.185

Felony Class: A

Statutory Elements: [Actual serious injury under circumstances evidencing extreme indifference to human life] Intentional serious injury to another by means of a deadly or dangerous weapon

Subcategory 1 - level of 6

...All cases of Assault I except those fitting Subcategory 2

Subcategory 2 - level of 5

...Cases of Assault I in which the victim or victims provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed substantially to the criminal episode.

[Rationale: This raises unprovoked cases of Assault I to a 6.]

ARSON I -- ORS 164.325

Felony Class: A

Statutory Elements: Arson involving either:
property of another which is customarily occupied by people; or
own property, if persons are endangered or if other customarily
occupied property is also endangered

ARSON I (Continued)

Subcategory 1 - rating of 6

...Knowing the premises were occupied at time of act; or
...Actual serious injury

Subcategory 2 - rating of 5

...Other cases of Arson I

[Rationale: This raises by one grade to 6 cases of arson where the arsonist either knew the premises were occupied or where serious injury actually resulted. Because of the actual injury or extreme risk involved in such cases, these seem to be more serious.]

BURGLARY I -- ORS 164.225

Felony Class: A

Statutory Elements: Burglary involving either:
entry of a dwelling; or else
entry of a building, if defendant is armed/carries
burglar's tools/causes or threatens injury/or use of a
dangerous weapon

Subcategory 1 - rating of 5

Entry into any actually or regularly occupied building, whether a dwelling or non-dwelling, where defendant

...Used or threatened to use, by word or gesture, a dangerous weapon; and
...caused or threatened serious physical injury

Subcategory 2 - rating of 4

...Entry into a non-dwelling in which value of goods taken is over \$5,000
...Entry into a residence or temporary residence, except for cases fitting
Subcategory 3

Subcategory 3 - rating of 3

...All other entries into a non-dwelling; or
...Entry into a residence or temporary residence in which

...Defendant is not armed with a deadly or dangerous weapon; and
...No extensive property damage; and
...Value of goods taken was below \$1,000

[Rationale: This would give a level 5 to burglaries where the burglar threatens or seriously injures occupants. It would give a level of 4 to the more serious home burglaries not involving a weapon and confrontation, namely those in which

BURGLARY I (Continued)

the place was ransacked or valuable goods were taken. It would give a level 3 to the less serious home burglaries, namely those in which there was no weapon, no ransacking, and the goods taken were under \$1,000. A typical example would be an unarmed breaking and entry of a house while the occupants were absent, and theft of a television set. It would give a level of 3 also to cases not involving invasions of privacy (e.g., entry into a warehouse).]

RAPE II -- ORS 163.365

Felony Class: B

Statutory Elements: Nonforcible intercourse involving:
incapacitated (e.g., mentally defective) female; or
female under 14 (i.e., 12 or 13)

Subcategory 1 - rating of 4

...All cases of Rape II except those fitting Subcategory 2

Subcategory 2 - rating of 3

...Not both under 16 and incapacitated; and
...No coercion or undue influence (e.g., father, step-father); and
...No position of trust (e.g., counselor, doctor)

[Rationale: The rating of 4 seems appropriate for cases of statutory rape where there was coercion or undue influence or misuse of a position of trust, or where the female was underage and mentally defective, as these all involve strong elements of involuntariness. However, voluntary intercourse with a 12- or 13-year-old girl and voluntary sexual intercourse with a woman over 16 who was incapacitated seem less serious, and this gives a ranking of 3.]

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) -- ORS 167.207(4)

Felony Class: A

Statutory Elements: Furnishing a narcotic or dangerous drug to a person
under 18 by an adult at least three years older

Subcategory 1 - rating of 4

...Furnishing heroin or opiate derivatives; or
...Sale for profit of any drug

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) (Continued)

Subcategory 2 - rating of 3

...Furnishing any other drug except those fitting in Subcategory 3

Subcategory 3 - rating of 2

...Furnishing less than one ounce of marijuana

[Rationale: This treats transfer of addictive drugs or drug dealing with minors as more serious than normal and sales of less than an ounce of marijuana as less serious.]

CRIMINAL ACTIVITY IN DRUGS (OTHER) -- ORS 167.207(1)

Felony Class: B

Statutory Elements: Manufacture, cultivation, sale or possession of any narcotic or dangerous drug (other than possession of less than one ounce of marijuana)

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

[Rationale: This retains the rating of 3 for dealing in narcotics, which involves higher social damage than other drugs. It gives a rating of 2 for dealing in non-addictive drugs. Possession of any drug for own use is given a 1, as this primarily involves self-injury. Reliance, though not exclusive, is to be placed on the judicial sentencing findings to determine the above elements with the burden on the defendant to show manufacture or possession for own use.]

BURGLARY II -- ORS 164.215

Felony Class: C

Statutory Elements: Any illegal entry, if not a Burglary I, with intent to commit a crime therein

BURGLARY II (Continued)

Subcategory 1 - rating of 3

...Theft or destruction of over \$5,000

Subcategory 2 - rating of 2

...Theft or destruction of between \$1,000 and \$5,000

Subcategory 3 - rating of 1

...Theft or destruction of less than \$1,000

[Rationale: These are illicit entries which neither involve a dwelling nor a high risk (no gun) nor professionalism (no burglar's tools). Thus, they seem to be closely akin to simple theft (see below) and are treated as such.]

THEFT I -- ORS 164.055

Felony Class: C

Statutory Elements: Theft involving:
more than \$200; or
during a riot or catastrophe; or
theft by receiving; or
of a livestock animal; or
of a firearm or explosive

Subcategory 1 - rating of 3

...Theft or receiving of over \$5,000

Subcategory 2 - rating of 2

...Theft or receiving of \$1,000 to \$5,000
...Theft of a firearm or explosive
...Theft of a livestock animal
...Theft during riot or catastrophe

Subcategory 3 - rating of 1

...Other thefts (i.e., thefts under \$1,000)

[Rationale: This raises thefts of large amounts (over \$5,000) to a 3. It reduces relatively small thefts (less than \$1,000, but more than \$200).]

THEFT OF SERVICES -- ORS 164.125

The breakdown should be the same as for ordinary Theft.

THEFT BY DECEPTION -- ORS 164.085

The breakdown should be the same as for ordinary Theft.

THEFT BY EXTORTION -- ORS 164.075

Felony Class: C

Statutory Elements: Extortion through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

[Rationale: Extortion involving threats of serious personal injury is clearly more serious.]

COERCION -- ORS 163.275

Felony Class: C

Statutory Elements: Compelling another to act through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

[Rationale: Coercion involving threats of serious personal injury is clearly more serious.]

UNAUTHORIZED USE OF A MOTOR VEHICLE -- ORS 164.135

Felony Class: C

Statutory Elements: Joyriding, unauthorized exercise of control over vehicle

Subcategory 1 - rating of 2

...Loss, destruction or severe damage to vehicle or to property; or
...Injury to others

Subcategory 2 - rating of 1

...Other

[Rationale: This reduces to 1 simple joyriding where the vehicle is recovered and no property damage is done to others and no one is hurt.]

FORGERY I -- ORS 165.013

Felony Class: C

The breakdown should be based on the amounts involved in the same manner as theft.

Note: For this crime and other theft crimes, the amounts involved would be based on the amounts for which each defendant has been convicted or has admitted.

POACHING -- ORS 496.992(3)

Felony Class: [1] C

Statutory Elements: Second and each subsequent conviction within a ten-year period for taking of game fish or game mammals with a value of \$200

Subcategory 1 - rating of 2

...Poaching of game valued over \$3,000; or
...Commercial operation

POACHING (Continued)

Subcategory 2 - rating of 1

...Other

[Rationale: This raises the rating to 2 for large-scale commercial poaching.]

ESCAPE II -- ORS 162.155

Felony Class: C

Statutory Elements: Escape from custody where individual:
uses or threatens to use physical force; or
the confinement is due to a finding of guilt of a felony; or
escape is from a correctional facility

Subcategory 1 - rating of 2

...All cases of Escape except those fitting Subcategory 2

Subcategory 2 - rating of 1

...Escapes from a minimum custody situation in a correctional facility for no more than 30 days (e.g., walkaways from Prison Farm, Work Release Center, outside custody at OSP)

[Rationale: Short-term walkaways from minimum custody situations are less serious. However, they are of sufficient seriousness to be treated under appropriate matrix ranges.]

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

ITEM	SCORE
(A) No prior felony or misdemeanor convictions as an adult or juvenile:*	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0 _____
(B) No prior 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) Age at first commitment of 90 days or more:**	
26 or older:	2
19 through 25:	1
18 or younger:	0 _____
(D) Never escaped, failed parole or probation:***	2
One incident of the above:	1
Any two or more incidents of the above:	0 _____
(E) Has no admitted or documented heroin or opiate derivative abuse problem, or has no admitted or documented alcohol problem:	1
One or more of the above:	0 _____
(F) Verified period of 5 years conviction free in the community prior to present offense:	1
Otherwise:	0 _____
TOTAL HISTORY/RISK ASSESSMENT SCORE:	=====

*Do not count convictions over 20 years old, convictions that have been pardoned, or juvenile or adult "status offenses" (runaway, truancy, incorrigibility, drunk in public).

**If no prior commitment, use age at present conviction.

***Count probation failure only if it resulted from new crime; count any parole failure.

off

83-78

FILED
AUG 3 1978
NORMA 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 _____

Board of Parole on August 3, 1978
(Agency) (Date)

to become effective August 3, 1978
(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:

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

Adopted:
(New Rules) _____

Temp. Perm.

Amended:
(Existing Rules) 254-00-001, 254-30-030, 254-30-032, 254-30-033, 254-30-034,
254-30-050, Exhibit A, Part II, Exhibit C, Exhibit D

Suspended:
(Temporary Only) _____

Repealed:
(Existing Rules) _____

as Administrative Rules of the Board of Parole

DATED this 3rd day of August, 1978
(Agency)

By: Billy G. Coeswell
(Authorized Signer)
Title: Acting Chairperson, Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: Additions to persons, organizations or publications receiving notice of rule

making; changes defining Board action for situations involving consecutive sentences, payment

of restitution, weight to be given reasons for judicial sentences, and circumstances (see attached

Statement of Need Attached: Yes No

For Further Information Contact: Marc Sussman or Ira Blalock Phone: 378-2171 & 2334

Subject Matter (Continued)

under which reductions for reformation will be granted; elimination of unnecessary language (i.e., the rationales) in the offense seriousness ratings and clarification of statutory elements of the individual crimes; addition of a breakdown for Category 7 crimes (i.e., Murder) to reflect statutory distinctions between aggravated and other murder; addition to Exhibit C of subcategories of Murder; and the addition to Exhibit D of the maximum upward or downward variations that may ordinarily be imposed by a full Board.

STATEMENT OF NEED
FOR TEMPORARY RULES

These rules are being amended to reflect changes necessary to define Board action for situations dealing with consecutive sentences, payment of restitution, weight to be given reasons for judicial sentences, and circumstances under which reductions for reformation will be granted, which have not previously been addressed in the Board's rules. Other changes are designed to eliminate internal inconsistencies in the operation of the rules or inconsistencies between the rules and statute. Changes in the offense seriousness ratings reflect an effort to eliminate unnecessary language (i.e., the rationales) and more closely conform to the statutory elements of the individual crimes; a new breakdown for Category 7 crimes (i.e., Murder) to reflect statutory distinctions between aggravated and other murder has been added.

Failure to amend these rules on an emergency basis would perpetuate inequities and create confusion in the application of the rules.

August 3, 1978
Date

Bill G. Cogswell
Bill G. Cogswell
Acting Chairperson
State Board of Parole

Notice of Rule Making

254-00-001 Prior to the adoption, amendment, or repeal of any rule, the Chairperson, Board of Parole, shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least fifteen days prior to the effective date.

(2) By mailing a copy of the notice to persons on the Board of Parole mailing list established pursuant to ORS 183.335(6).

(3) By mailing a copy of the notice to the following persons, organizations or publications:

(a) Oregon State Bar Bulletin

(b) United Press International and Associated Press

(c) Regional Offices, Parole and Probation, 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) [Oregon Prisoners Legal Services Project] Coos County Public Defender

(k) [University of Oregon Law School] State Public Defender

(l) [Lewis & Clark, Northwestern College of Law] Oregon Prisoners Legal

Services of Oregon

(m) [Willamette University College of Law] University of Oregon Law School

(n) [American Civil Liberties Union] Lewis & Clark, Northwestern College

of Law

(o) [Others upon formal written request of the Board of Parole]

Willamette University, College of Law

(p) American Civil Liberties Union

(q) The Oregonian, Portland, Oregon

(r) The Oregon Journal, Portland, Oregon

(s) The Oregon Statesman, Salem, Oregon

(t) The Capitol Journal, Salem, 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 of Parole

(4) [Or] 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.

Offense Severity

254-30-030 (1) The Board shall use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, shall assign a severity rating from one to seven as set forth in Exhibit A.

(2) Exceptions:

(a) Multiple convictions with concurrent sentences shall be classified according to the crime bearing the highest rating.

(b) Attempt (ORS 161.405) and Solicitation (ORS 161.435) shall be assigned a rating one category less than the criminal activity intended; but Conspiracy shall be treated as of the same severity as the actual crime.

(c) Crimes not listed shall be rated by comparison to crimes listed on the table.

(d) When a prisoner is serving two or more consecutive sentences, the term of imprisonment shall be the sum of the [established] ranges [set forth in Exhibit C under ORS 144.785(2)] as established in rule 254-30-032.

(3) Serious physical injury as used in these rules shall mean 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.

(4) Harm-loss as used in these rules refers to the actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.

Parole Release Date

254-30-032 (1) The Board shall set a parole release date within the parameters of the matrix in Exhibit C unless it finds aggravation or mitigation under rule 254-30-033, or the statutory good time date on the sentence imposed is shorter than the matrix range. In the latter case, the parole release date set shall be considered within the range when set at six months less than the statutory good time date on a sentence [of more than one but less than] between one and three years; at nine months less than the statutory good time date on a sentence [between] from three [and] to six years; and at twelve months less than any sentence exceeding six years, unless the Board makes a finding pursuant to (2) of this section.

(2) The Board may choose not to set a parole release date (i.e., the prisoner shall serve to the end of his/her sentence pursuant to ORS 421.120) when the offense of commitment included particularly violent or otherwise dangerous criminal conduct as defined by (a) of this section, or whose offense was preceded by two or more convictions of a class A or class B felony or whose record includes a psychiatric or psychological diagnosis of severe emotional disturbance.

(a) Particularly violent or otherwise dangerous criminal conduct is conduct which is not merely unpleasant or offensive, but exceeds aggravation listed in rule 254-30-033(1)(b). This is conduct of a type which manifests indifference to the value of human safety or property (e.g., actions which terrorize or inflict serious mental distress on a victim, as the rapist who telephones the victim and threatens to repeat the crime; unusual or protracted cruelty; multiple victims in a single or separate incident; extremely high harm-loss, as the burglar who takes a stereo and proceeds to destroy a large number of items left in the house with an axe; infliction of serious physical injury, if not an element of the crime).

(b) 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.

(3) When the Board has set the parole release date for a prisoner, it shall inform the sentencing court, the district attorney and, upon request, the prisoner's counsel.

(4) The Board shall not set a parole release date for a dangerous offender sentenced under ORS 161.725 and 161.735 if the record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance (e.g., severe personality disorder). The Board shall set a date for a parole consideration hearing under the matrix guidelines in Exhibit C and provisions for variations under rule 254-30-033.

(a) At this hearing, the Board shall not set a parole release date unless the psychiatric or psychological report and the report of the Correctional Institution executive officer, pursuant to ORS 144.228, reveal 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 refuse to set a release date under rule 254-30-050(6).

(c) Reviews shall be given dangerous offenders pursuant to rule 254-40-005 (1)(a). If, at the review, the psychiatric or psychological reports and the executive officer's report reveal that the severe emotional disturbance which has made the prisoner dangerous is no longer present, the Board shall review the matter pursuant to rule 254-40-005 and set a parole release date according to (1) of this rule and rule 254-30-033.

(5) For offense severity rating 7 offenses where the parole hearing date was established prior to the implementation of these rules, the Board may reset those parole hearing dates to the following minimum times to be served:

Criminal History/Risk Assessment Score

11-9	8-6	5-3	2-0
8 years	10 years	12 years	12 years

(6) In determining the parole release date for a person convicted of Escape, time on escape shall be inoperable. The time from the prisoner's escape until the original parole release date shall be served in addition to the appropriate range for the new offense.

(7) When consecutive sentences have been imposed, the following shall apply:

(a) Consecutive sentences shall be treated as if imposed for aggravation which warrants exceeding normally applicable variations from the guidelines.

(b) For purposes of establishing a parole release date, the Board shall consider the summed ranges for consecutive sentences as a single, unified range; any minimum sentences shall be considered a single, unified minimum.

(c) The Board shall set a parole release date no higher than the parameters of the sum of the ranges for the applicable offenses. The Board may mitigate pursuant to rule 254-30-033; the downward variations in Exhibit D shall be summed.

(d) If the range for the highest rated offense of commitment plus the maximum permissible variations permitted to a panel exceeds the summed ranges, the Board shall use the higher figure as the top of the range.

(e) In ordinary cases, the Board shall set the parole release date in a range within the lower half of the summed ranges.

(f) If the Board finds sufficient aggravation is present, it may exceed the range in subsection (e) above by affirmative vote of four Board members following a hearing.

(g) The Board shall state on the record the facts and specific reasons for the date set imposed.

Statutory Authority: ORS Chapter 144

Variations from the Ranges

254-30-033 (1) The Board may depart from the parameters of the matrix only upon making a specific finding that there is, by a preponderance of the evidence, aggravation or mitigation which justifies departure from the ranges. The Board shall clearly state on the record the facts and specific reasons for variation from the range.

(a) Information considered by the Board in determining whether aggravation or mitigation exists shall be disclosed prior to the hearing, pursuant to rules 254-30-042 and 254-30-043, to permit the prisoner an opportunity to respond before the Board finds aggravation or mitigation.

(b) Usual, but not exclusive, factors in aggravation or mitigation are shown in Exhibit E. The Board may consider circumstances not listed in Exhibit E; however, [such] aggravating circumstances must be of a type which relate to either the severity of the prisoner's offense or the prisoner's criminal history.

(c) Maximum upward or downward variations from a range permitted to a panel are shown in Exhibit D.

(2) Where a panel, based upon its findings pursuant to (1) of this section, 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 indicated in Exhibit D, it shall refer the matter to the full Board for consideration.

(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 applicable maximum variations in Exhibit D, or choosing not to set a parole release date. Maximum upward or downward variations from a range permitted to the full Board are shown in Exhibit D.

(b) [The Board shall clearly state on the record the facts and specific reasons why the normal variation is insufficient.] The ordinary maximum upward or downward variations from a range allowed to the full Board is shown by the larger number in Exhibit D; that number is inclusive of the variation permitted to a panel.

(c) Affirmative votes of at least four members of the Board shall be required to impose, or exceed, the allowable variations in Exhibit D, or in choosing not to set a parole release date.

(d) Before the Board can exceed the variations shown in Exhibit D, the prisoner must be given a hearing before the full Board.

(e) The Board shall clearly state on the record the facts and specific reasons for its decision to exceed the normal variations permitted a panel.

(f) The Board may order further proceedings if it feels additional facts are necessary to make a final decision in choosing not to set a parole release date.

(3) If any of the aggravating or mitigating circumstances listed in Exhibit E shall also constitute a defining element of the crime or subcategory of the crime of which the prisoner was convicted, or are cited in the history/risk calculation, then such circumstance shall not justify variation from the matrix.

(4) Plea Bargained Sentences: If the prisoner has pleaded guilty to the crime or crimes of which he/she was convicted and more serious or other charges have been dismissed, or other crimes have not been charged, then the Board may deem it an aggravating or mitigating circumstance, allowing a variation from the matrix pursuant to rule 254-30-033(1), if the Court has found, or the Board finds, by a preponderance of the evidence, that the defendant's actual criminal conduct was of a different degree of seriousness than the crime of which he/she was convicted. In determining whether the conduct was of a different degree of seriousness, the Board shall consult the rankings of seriousness of crimes set forth in Exhibit A. In such cases, the Board shall state the actual criminal conduct on the record.

(5) Sentence as Aggravating or [Mitigation] Mitigating: The Board shall deem the sentence an aggravating or mitigating circumstance, which allows a variation from the matrix pursuant to rule 254-30-033, if the Board 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 [173.120(2)] 137.120(2) disclose:

(a) the presence of any aggravating or mitigating circumstances described in subsections (3) and (4) above or Exhibit F;

(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.

(6) Restitution: A sentence to pay restitution after a term of imprisonment has been completed shall be considered as mitigating.

Judicial Sentences

254-30-034 (1) When a judge imposes a minimum term of imprisonment upon a prisoner pursuant to ORS 144.110(1), the Board shall not release the prisoner before the minimum has been served except upon affirmative votes of at least four members of the Board.

(2) The Board of Parole shall rely upon any findings of fact determined in the open court to make its determinations relating to offense severity, history/risk score and aggravation and mitigation; it shall consider the Court's reasons for the sentence imposed, unless:

(a) the court applied the rules governing the establishment of the guideline ranges incorrectly,

(b) information is available that was not considered at the time of sentencing,

(c) the court's finding, while technically correct, leads to an inequitable result.

(3) When making a finding contrary to the court, the Board shall provide particularized written reasons for its action.

(4) When a person has been sentenced pursuant to ORS 137.106 to pay restitution, and any portion of that payment is deferred until after release from imprisonment, the Board shall establish a schedule of payments and supervise those payments.

(a) In establishing and supervising a schedule of payments, the Board shall consider:

(i) the prisoner's financial resources, including salary, savings and liquid assets,

(ii) the burden that it will impose in light of the person's overall obligations (e.g., family and necessary living expenses),

(iii) ability to pay on an installment or other conditional basis,

(iv) the rehabilitative effect of the payment and the method of payment.

(b) Normal payments shall range from 10 to 20 percent of a person's take-home salary without voluntary payroll deductions unless significant savings or liquid assets permit larger amounts.

(c) Restitution is a form of punishment which requires an offender to assume responsibility for his/her criminal conduct by assuming the costs of compensating the actual victim(s) of the crime, or the State when it has provided compensation to the victim(s), under ORS 147.005 to 147.365. The Board shall consider a sentence to pay restitution after a term of imprisonment as mitigation in setting a parole release date.

(d) Payment of restitution shall be included as a special condition of parole.

(i) Any applicable schedule shall be clearly stated on the Order of Parole.

(ii) Payments shall be made to the clerk of the court of the county of sentencing, or as directed by the Board.

(iii) The method and manner of payment shall be supervised by the individual's parole officer.

(e) When a parolee defaults on any scheduled payment, the default shall be grounds for revocation of parole unless the parolee shows:

(i) the default was not due to an intentional refusal to make the payment,

(ii) the default occurred despite a good faith effort to make the payment.

(f) If payment of restitution has not been completed by the parolee's tentative discharge date, the parolee shall be continued on parole until completion of payment or the expiration of his/her sentence, whichever is first.

Parole Release Date Resets

254-30-050 (1) An established parole release date may be reset to an earlier time upon [recommendation of institution superintendent, Chief of Field Services, or a Board member] application for review to the Chairperson of the Board and after concurrence of a voting majority of the Board, unless the prisoner has been sentenced for an aggravated murder under ORS 163.105.

(a) Reductions in parole release dates will ordinarily be granted only in cases where a prisoner can show an extended course of institutional conduct indicating outstanding reformation. Cases will be determined on individual merits; however, the usual criteria include:

(i) extended period of good conduct (five years), and

(ii) extended, demonstrable achievement in dealing with problems present at incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills).

(b) A prisoner's exercise of recognized constitutional rights or legitimate use of legal process shall not be construed as a lack of good conduct.

(c) Cooperation with authorities is not sufficient in itself to justify a reduction.

(d) Reductions shall be limited to a maximum of 20 percent of the prison term imposed unless at least four Board members approve a further reduction.

(e) A recommendation shall be requested from the institution superintendent on each application (referred to the Board by the Chairperson).

(f) The prisoner shall assume the burden of establishing that his/her conduct is so exemplary as to warrant a date reduction.

(g) A prisoner sentenced to a minimum term for aggravated murder under ORS 163.105 shall be subject to the provisions of that statute.

(2) An established parole release date may be reset to a later date upon recommendation of an institution superintendent or a Board member, and after the concurrence of a quorum of the Board, but only after the prisoner has had an opportunity to appear pursuant to rule 254-30-005, et. seq. A prisoner may waive his/her right to appear in writing or by voluntary absence from the institution.

(3) When the Board is notified by the Administrator of the Corrections Division that an extension of a prisoner's parole release date has been recommended pursuant to the joint Parole Board and Corrections Division rule on "Extension of Parole Release Dates," rule 254-30-055, it shall conduct a hearing to determine whether the misconduct was serious. The prisoner shall have the right to appear accorded in rule 254-30-005 et. seq. (i.e., same procedures shall be followed).

(a) Serious misconduct is misconduct which the Board classifies within one of the four categories listed in the joint Parole Board and Corrections Division rule on "Extension of Parole Release Dates," rule 254-30-055.

(b) A prisoner may not relitigate facts which he/she has had a full opportunity to contest and have been decided against him/her in other forums.

(c) If the Parole Board does not find that all other disciplinary options are inadequate to the seriousness of the misconduct, considering the following factors: (1) effectiveness of the sanction as a disciplinary measure, both to the inmate and to the general institution population, (2) degree of hazard posed by the misconduct to human health and/or life,

institution security, or to property, (3) seriousness of the misconduct had it been committed in the wider community, (4) circumstances of the misconduct, and (5) the inmate's prior record of conduct, the Board may request the prisoner be given another hearing before the institution disciplinary committee originating the recommendation for reset, or choose not to reset the parole release date.

(d) The Board shall clearly state on the record facts and specific reasons for its decision.

(4) The Board may continue the parole hearing and order a psychiatric examination when it appears that a severe emotional disturbance is present. If there is a psychiatric or psychological diagnosis of present severe emotional disturbance, the Board may defer release to a specified future date or refuse to set a release date. In choosing not to set a parole release date, rule 254-30-032 shall control.

(5) The Board shall clearly state on the record the facts and specific reasons for the reset.

(6) The Board may suspend imposition of an extended parole release date upon recommendation of an institution Disciplinary Committee.

EXHIBIT A

Part II

Offense Seriousness Ratings:
Subcategorization of Broad-Scope Offense Categories

MURDER -- ORS 163.115

Felony Class: A

Statutory Elements: Committed intentionally, not under extreme emotional disturbance; committed by person(s) committing, attempting or fleeing from Arson I, Burglary I, Escape I, Kidnapping I, Rape I, Sodomy I, or Robbery.

Subcategory 1 - rating of 7

...Stranger to stranger; cruelty to victim; prior conviction for Murder or Manslaughter; evidence of significant planning or preparation

Subcategory 2 - rating of 7

...All other cases of Murder

RAPE I -- ORS 163.375

Felony Class: A

Statutory Elements: Forcible compulsion; or voluntary intercourse with female under 12; or incestuous voluntary intercourse with female under 16

Subcategory 1 - rating of 6

...Stranger to stranger; aggravated custodial interference; breaking and entering; threat to use or use of a weapon; or actual or attempted serious bodily or emotional harm; or
...Intercourse with female under 12

Subcategory 2 - rating of 5

...All other cases

[Rationale: This recognizes relative degrees of seriousness of violation based on injury, violence, surprise, identity of parties, and the extent of the invasion of victim's privacy.]

SODOMY I -- ORS 163.405

[Sodomy I is the same as Rape I except that deviate sexual intercourse is involved. The breakdown should be the same as for Rape I.] Sodomy I should be broken down in the same manner as Rape I.

ROBBERY I -- ORS 164.415

Felony Class: A

Statutory Elements: Robbery involved either:
armed with a deadly weapon; or
uses or attempts to use dangerous weapon; or
causes or attempts to cause serious injury

Subcategory 1 - rating of 6

...All cases of Robbery I except those fitting Subcategory 2

Subcategory 2 - rating of 5

Cases of robbery where the crime does not involve

...discharge of a firearm; or
...use of any other dangerous weapon; or
...explicit and immediate threats, by word or gesture (e.g., cocking hammer of
gun), of death or serious bodily harm; or
...serious injury

[Rationale: This raises to a 6 the more serious cases of robbery, viz. where
there is use of a weapon, menacing or serious injury.]

ASSAULT I -- ORS 163.185

Felony Class: A

Statutory Elements: [Actual serious injury under circumstances evidencing
extreme indifference to human life] Intentional serious
injury to another by means of a deadly or dangerous
weapon

Subcategory 1 - rating of 6

...All cases of Assault I except those fitting Subcategory 2

Subcategory 2 - rating of 5

...Cases of Assault I in which the victim or victims provoked the crime to
a substantial degree, or other evidence that misconduct by victim contributed
substantially to the criminal episode.

[Rationale: This raises unprovoked cases of Assault I to a 6.]

ARSON I -- ORS 164.325

Felony Class: A

Statutory Elements: Arson involving either:
property of another which is customarily occupied by
people; or own property, if persons are endangered or
if other customarily occupied property is also endangered

ARSON I (Continued)

Subcategory 1 - rating of 6

...Knowing the premises were occupied at time of act; or
...Actual serious injury

Subcategory 2 - rating of 5

...Other cases of Arson I

[Rationale: This raises by one grade to 6 cases of arson where the arsonist either knew the premises were occupied or where serious injury actually resulted. Because of the actual injury or extreme risk involved in such cases, these seem to be more serious.]

BURGLARY I -- ORS 164.225

Felony Class: A

Statutory Elements: Burglary involving either:
entry of a dwelling; or else
entry of a building, if defendant is armed/carries
burglar's tools/causes or threatens injury/or use of a
dangerous weapon

Subcategory 1 - rating of 5

Entry into any actually or regularly occupied building, whether a dwelling or non-dwelling, where defendant

...Used or threatened to use, by word or gesture, a dangerous weapon; and
...caused or threatened serious physical injury

Subcategory 2 - rating of 4

...Entry into a non-dwelling in which value of goods taken is over \$5,000
...Entry into a residence or temporary residence, except for cases fitting
Subcategory 3

Subcategory 3 - rating of 3

...All other entries into a non-dwelling; or
...Entry into a residence or temporary residence in which

...Defendant is not armed with a deadly or dangerous weapon; and
...No extensive property damage; and
...Value of goods taken was below \$1,000

[Rationale: This would give a level 5 to burglaries where the burglar threatens or seriously injures occupants. It would give a level of 4 to the more serious home burglaries not involving a weapon and confrontation, namely those in which

BURGLARY I (Continued)

the place was ransacked or valuable goods were taken. It would give a level 3 to the less serious home burglaries, namely those in which there was no weapon, no ransacking, and the goods taken were under \$1,000. A typical example would be an unarmed breaking and entry of a house while the occupants were absent, and theft of a television set. It would give a level of 3 also to cases not involving invasions of privacy (e.g., entry into a warehouse).]

RAPE II -- ORS 163.365

Felony Class: B

Statutory Elements: Nonforcible intercourse involving:
incapacitated (e.g., mentally defective) female; or
female under 14 (i.e., 12 or 13)

Subcategory 1 - rating of 4

...All cases of Rape II except those fitting Subcategory 2

Subcategory 2 - rating of 3

...Not both under 16 and incapacitated; and
...No coercion or undue influence (e.g., father, step-father); and
...No position of trust (e.g., counselor, doctor)

[Rationale: The rating of 4 seems appropriate for cases of statutory rape where there was coercion or undue influence or misuse of a position of trust, or where the female was underage and mentally defective, as these all involve strong elements of involuntariness. However, voluntary intercourse with a 12- or 13-year-old girl and voluntary sexual intercourse with a woman over 16 who was incapacitated seem less serious, and this gives a ranking of 3.]

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) -- ORS 167.207(4)

Felony Class: A

Statutory Elements: Furnishing a narcotic or dangerous drug to a person
under 18 by an adult at least three years older

Subcategory 1 - rating of 4

...Furnishing heroin or opiate derivatives; or
...Sale for profit of any drug

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) (Continued)

Subcategory 2 - rating of 3

...Furnishing any other drug except those fitting in Subcategory 3

Subcategory 3 - rating of 2

...Furnishing less than one ounce of marijuana

[Rationale: This treats transfer of addictive drugs or drug dealing with minors as more serious than normal and sales of less than an ounce of marijuana as less serious.]

CRIMINAL ACTIVITY IN DRUGS (OTHER) -- ORS 167.207(1)

Felony Class: B

Statutory Elements: Manufacture, cultivation, sale or possession of any narcotic or dangerous drug (other than possession of less than one ounce of marijuana)

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

[Rationale: This retains the rating of 3 for dealing in narcotics, which involves higher social damage than other drugs. It gives a rating of 2 for dealing in non-addictive drugs. Possession of any drug for own use is given a 1, as this primarily involves self-injury. Reliance, though not exclusive, is to be placed on the judicial sentencing findings to determine the above elements with the burden on the defendant to show manufacture or possession for own use.]

BURGLARY II -- ORS 164.215

Felony Class: C

Statutory Elements: Any illegal entry, if not a Burglary I, with intent to commit a crime therein

BURGLARY II (Continued)

Subcategory 1 - rating of 3

...Theft or destruction of over \$5,000

Subcategory 2 - rating of 2

...Theft or destruction of between \$1,000 and \$5,000

Subcategory 3 - rating of 1

...Theft or destruction of less than \$1,000

[Rationale: These are illicit entries which neither involve a dwelling nor a high risk (no gun) nor professionalism (no burglar's tools). Thus, they seem to be closely akin to simple theft (see below) and are treated as such.]

THEFT I -- ORS 164.055

Felony Class: C

Statutory Elements: Theft involving:
more than \$200; or
during a riot or catastrophe; or
theft by receiving; or
of a livestock animal; or
of a firearm or explosive

Subcategory 1 - rating of 3

...Theft or receiving of over \$5,000

Subcategory 2 - rating of 2

...Theft or receiving of \$1,000 to \$5,000
...Theft of a firearm or explosive
...Theft of a livestock animal
...Theft during riot or catastrophe

Subcategory 3 - rating of 1

...Other thefts (i.e., thefts under \$1,000)

[Rationale: This raises thefts of large amounts (over \$5,000) to a 3. It reduces relatively small thefts (less than \$1,000, but more than \$200).]

THEFT OF SERVICES -- ORS 164.125

The breakdown should be the same as for ordinary Theft.

THEFT BY DECEPTION -- ORS 164.085

The breakdown should be the same as for ordinary Theft.

THEFT BY EXTORTION -- ORS 164.075

Felony Class: C

Statutory Elements: Extortion through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

[Rationale: Extortion involving threats of serious personal injury is clearly more serious.]

COERCION -- ORS 163.275

Felony Class: C

Statutory Elements: Compelling another to act through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

[Rationale: Coercion involving threats of serious personal injury is clearly more serious.]

UNAUTHORIZED USE OF A MOTOR VEHICLE -- ORS 164.135

Felony Class: C

Statutory Elements: Joyriding, unauthorized exercise of control over vehicle

Subcategory 1 - rating of 2

...Loss, destruction or severe damage to vehicle or to property; or
...Injury to others

Subcategory 2 - rating of 1

...Other

[Rationale: This reduces to 1 simple joyriding where the vehicle is recovered and no property damage is done to others and no one is hurt.]

FORGERY I -- ORS 165.013

Felony Class: C

The breakdown should be based on the amounts involved in the same manner as theft.

Note: For this crime and other theft crimes, the amounts involved would be based on the amounts for which each defendant has been convicted or has admitted.

POACHING -- ORS 496.992(3)

Felony Class: [1] C

Statutory Elements: Second and each subsequent conviction within a ten-year period for taking of game fish or game mammals with a value of \$200

Subcategory 1 - rating of 2

...Poaching of game valued over \$3,000; or
...Commercial operation

POACHING (Continued)

Subcategory 2 - rating of 1

...Other

[Rationale: This raises the rating to 2 for large-scale commercial poaching.]

ESCAPE II -- ORS 162.155

Felony Class: C

Statutory Elements: Escape from custody where individual:
uses or threatens to use physical force; or
the confinement is due to a finding of guilt of a felony; or
escape is from a correctional facility

Subcategory 1 - rating of 2

...All cases of Escape except those fitting Subcategory 2

Subcategory 2 - rating of 1

...Escapes from a minimum custody situation in a correctional facility for
no more than 30 days (e.g., walkaways from Prison Farm, Work Release Center,
outside custody at OSP)

[Rationale: Short-term walkaways from minimum custody situations are less serious. However, they are of sufficient seriousness to be treated under appropriate matrix ranges.]

EXHIBIT C

Time to be Served Under Rule 30-032

OFFENSE SEVERITY RATING	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
	11-9	8-6	5-3	2-0
	Excellent	Good	Fair	Poor
	(All ranges in Categories 1-6 shown in months)			
Category 1 - - - - -	-6	-6	6-12 (4-8)*	12-22 (8-18)
Category 2 - - - - -	-6	6-10 (4-8)	10-18 (8-14)	18-28 (14-24)
Category 3 - - - - -	6-10 (4-8)	10-16 (8-12)	16-24 (12-20)	24-36 (20-32)
Category 4 - - - - -	10-16 (8-12)	16-22 (12-18)	22-30 (16-24)	30-48 (24-42)
Category 5 - - - - -	18-24	24-30 (20-26)	30-48 (26-40)	48-72 (40-62)
Category 6 - - - - -	36-48	48-60	60-86	86-144
**Category 7 - - - - -				
<u>Subcategory 2</u>	8-10 yrs	10-13 yrs	13-16 yrs	16-20 yrs
<u>Subcategory 1</u>	10-14 yrs	14-19 yrs	19-24 yrs	24-Life

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

**The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

8/3/78

EXHIBIT D

Maximum Variations from the Ranges under Rule 30-033

	11-9	8-6	5-3	2-0
	Excellent	Good	Fair	Poor
OFFENSE SEVERITY RATING	(All ranges in Categories 1-6 shown in months)			
[Category 1 - - - - -	±2	±2	±3	±4]
[Category 2 - - - - -	±2	±3	±4	±6]
[Category 3 - - - - -	±3	±4	±6	±8]
[Category 4 - - - - -	±4	±6	±8	±10]
[Category 5 - - - - -	±6	±8	±10	±14]
[Category 6 - - - - -	±12	±14	±18	±24]
[Category 7 - - - - -	±2 years	±2 years	±2 years	-2/NA]

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EXHIBIT D

Maximum Variations from the Ranges Under Rule 30-033

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9	8-6	5-3	2-0
Excellent	Good	Fair	Poor

OFFENSE SEVERITY RATING

(All ranges in Categories 1-6 shown in months)

<u>Category 1</u>	Panel	+2	+2	+3	+4
	Full Board	<u>+4*</u>	<u>+4</u>	<u>+6</u>	<u>+8</u>
<u>Category 2</u>	Panel	+2	+3	+4	+6
	Full Board	<u>+4</u>	<u>+6</u>	<u>+8</u>	<u>+12</u>
<u>Category 3</u>	Panel	+3	+4	+6	+8
	Full Board	<u>+6</u>	<u>+8</u>	<u>+12</u>	<u>+16</u>
<u>Category 4</u>	Panel	+4	+6	+8	+10
	Full Board	<u>+8</u>	<u>+12</u>	<u>+16</u>	<u>+20</u>
<u>Category 5</u>	Panel	+6	+8	+10	+14
	Full Board	<u>+12</u>	<u>+16</u>	<u>+20</u>	<u>+26</u>
<u>Category 6</u>	Panel	+12	+14	+18	+24
	Full Board	<u>+24</u>	<u>+26</u>	<u>+30</u>	<u>+36</u>
<u>Category 7</u>	Panel	+2 years	+2 years	+2 years	-2 years/NA
	Full Board	<u>+3 years</u>	<u>+3 years</u>	<u>+3 years</u>	<u>+3 years/NA</u>

*This figure indicates maximum upward or downward variations that may ordinarily be imposed by a full Board.

off

11-15-78

FILED
NOV 15 1978
NORMA 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 _____

Board of Parole on November 15, 1978
(Agency) (Date)

to become effective November 15, 1978
(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:

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

Adopted:
(New Rules)

Temp.

Perm.

Amended:
(Existing Rules)

254-00-001; 254-30-030; 254-30-032; 254-30-033; 254-30-034;
254-30-042; 254-30-050; 254-40-012; 254-70-035; 254-90-005;
254-90-020; Exhibit A, Part I and Part II; 254-30-031--Exhibit B;
Exhibit C; Exhibit D

Suspended:
(Temporary Only)

Repealed:
(Existing Rules)

as Administrative Rules of the Board of Parole
(Agency)

DATED this 15th day of November, 1978

By: *Pauline Jones*
(Authorized Signer)

Title: Acting Chairperson, Board of Parole

Statutory Authority: ORS Chapter 144

Subject Matter: See attachment

Statement of Need Attached: Yes No

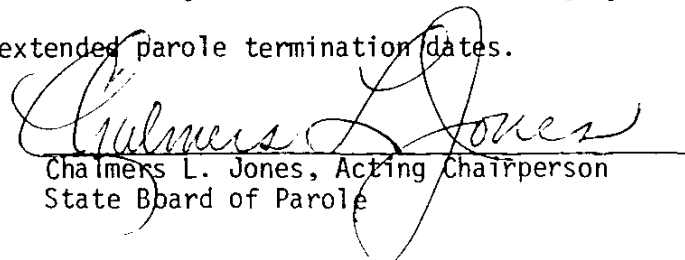
For Further Information Contact: Marc Sussman or Ira Blalock Phone: 378-2171

Statement of Need
for Permanent Amendments to Administrative Rules

These rules are being amended to reflect changes necessary to define Board action for situations dealing with consecutive sentences, payment of restitution, weight to be given reasons for judicial sentences, and circumstances under which reductions for reformation will be granted, which have not previously been addressed in the Board's rules. Other changes are designed to eliminate internal inconsistencies in the operation of the rules or inconsistencies between the rules and statute. Changes in the offense seriousness ratings reflect an effort to eliminate unnecessary language and more closely conform to the statutory elements of the individual crimes; and a new breakdown for Category 7 crimes (i.e., Murder) to reflect statutory distinctions between aggravated and other murder has been added.

The amendments will also ensure that uniform definitions are adopted; bring the rules into compliance with practical realities for establishment of release dates; refine procedures for disclosure of material prepared prior to the adoption of the guidelines; provide for reopening of cases where statutory changes have occurred; bring revocation rules into compliance with case law; allow for equitable establishment of discharge dates for offense category 7; and will expedite reductions in extended parole termination dates.

Dated: November 15, 1978


Chalmers L. Jones, Acting Chairperson
State Board of Parole

Notice of Rule Making

254-00-001 Prior to the adoption, amendment, or repeal of any rule, the Chairperson, Board of Parole, shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least fifteen days prior to the effective date.

(2) By mailing a copy of the notice to persons on the Board of Parole mailing list established pursuant to ORS 183.335(6).

(3) By mailing a copy of the notice to the following persons, organizations or publications:

(a) Oregon State Bar Bulletin

(b) United Press International and Associated Press

(c) Regional Offices, Parole and Probation, 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) [Oregon Prisoners Legal Services Project] Coos County Public Defender

(k) [University of Oregon Law School] State Public Defender

(l) [Lewis & Clark, Northwestern College of Law] Oregon Prisoners Legal

Services of Oregon

(m) [Willamette University College of Law] University of Oregon Law School

(n) [American Civil Liberties Union] Lewis & Clark, Northwestern College

of Law

(o) [Others upon formal written request of the Board of Parole]

Willamette University, College of Law

(p) American Civil Liberties Union

(q) The Oregonian, Portland, Oregon

(r) The Oregon Journal, Portland, Oregon

(s) The Oregon Statesman, Salem, Oregon

(t) The Capitol Journal, Salem, 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 of Parole

(4) [Or] 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.

Offense Severity

254-30-030 (1) The Board shall use the table in Exhibit A to assess the seriousness of the offense and, subject to the exceptions therein, shall assign a severity rating from one to seven as set forth in Exhibit A.

(2) Exceptions:

(a) Multiple convictions with concurrent sentences shall be classified according to the crime bearing the highest rating.

(b) Attempt (ORS 161.405) and Solicitation (ORS 161.435) shall be assigned a rating one category less than the criminal activity intended; but Conspiracy shall be treated as of the same severity as the actual crime.

(c) Crimes not listed shall be rated by comparison to crimes listed on the table.

(d) When a prisoner is serving two or more consecutive sentences, the term of imprisonment shall be the sum of the [established] ranges [set forth in Exhibit C under ORS 144.785(2)] as established in rule 254-30-032.

(3) Serious physical injury as used in these rules shall mean 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.

(4) Harm-loss as used in these rules refers to the actual or immediately threatened injury associated with particular criminal conduct, whether to person or property.

Statutory Authority: ORS Chapter 144

Parole Release Date

254-30-032 (1) The Board shall set a parole release date within the parameters of the matrix in Exhibit C unless it finds aggravation or mitigation under rule 254-30-033, or the statutory good time date on the sentence imposed is shorter than the matrix range. In the latter case, the parole release date set shall be considered within the range when set at six months less than the statutory good time date on a sentence [of up to three years] between one and three years; at nine months less than the statutory good time date on a sentence [between] from three [and] to six years; and at twelve months less than any sentence exceeding six years, unless the Board makes a finding pursuant to (2) of this section.

(2) The Board may choose not to set a parole release date (i.e., the prisoner shall serve to the end of his/her sentence pursuant to ORS 421.120) when the offense of commitment included particularly violent or otherwise dangerous criminal conduct as defined by (a) of this section, or whose offense was preceded by two or more convictions of a class A or class B felony or whose record includes a psychiatric or psychological diagnosis of severe emotional disturbance.

(a) Particularly violent or otherwise dangerous criminal conduct is conduct which is not merely unpleasant or offensive, but exceeds aggravation listed in rule 254-30-033 (1)(b). This is conduct of a type which manifests indifference to the value of human safety or property (e.g., actions which terrorize or inflict serious mental distress on a victim, as the rapist who telephones the victim and threatens to repeat the crime; unusual or protracted cruelty; multiple victims in a single or separate incident; extremely high harm-loss, as the burglar who takes a stereo and proceeds to destroy a large number of items left in the house with an axe; infliction of serious physical injury, if not an element of the crime).

(b) 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.

(3) When the Board has set the parole release date for a prisoner, it shall inform the sentencing court, the district attorney and, upon request, the prisoner's counsel.

(4) The Board shall not set a parole release date for a dangerous offender sentenced under ORS 161.725 and 161.735 if the record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance (e.g., severe personality disorder). The Board shall set a date for a parole consideration hearing under the matrix guidelines in Exhibit C and provisions for variations under rule 254-30-033.

(a) At this hearing, the Board shall not set a parole release date unless the psychiatric or psychological report and the report of the Correctional Institution executive officer, pursuant to ORS 144.228, reveal 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 refuse to set a release date under rule 254-30-050(6).

(c) Reviews shall be given dangerous offenders pursuant to rule 254-40-005 (1)(a). If, at the review, the psychiatric or psychological reports and the executive officer's report reveal that the severe emotional disturbance which has made the prisoner dangerous is no longer present, the Board shall review the matter pursuant to rule 254-40-005 and set a parole release date according to (1) of this rule and rule 254-30-033.

(5) For offense severity rating 7 offenses where the parole hearing date was established prior to the implementation of these rules, the Board may reset those parole hearing dates to the following minimum times to be served:

Criminal History/Risk Assessment Score

11-9	8-6	5-3	2-0
8 years	10 years	12 years	12 years

(6) In determining the parole release date for a person convicted of Escape, time on escape shall be inoperable. The time from the prisoner's escape until the original parole release date shall be served in addition to the appropriate range for the new offense.

(7) When consecutive sentences have been imposed, the following shall apply:

(a) Consecutive sentences shall be treated as if imposed for aggravation which warrants exceeding normally applicable variations from the guidelines.

(b) For purposes of establishing a parole release date, the Board shall consider the summed ranges for consecutive sentences as a single, unified range; any minimum sentences shall be considered a single, unified minimum.

(c) The Board shall set a parole release date no higher than the parameters of the sum of the ranges for the applicable offenses. The Board may mitigate pursuant to rule 254-30-033; the downward variations in Exhibit D shall be summed.

(d) If the range for the highest rated offense of commitment plus the maximum permissible variations permitted to a panel exceeds the summed ranges, the Board shall use the higher figure as the top of the range.

(e) In ordinary cases, the Board shall set the parole release date in a range within the lower half of the summed ranges.

(f) If the Board finds sufficient aggravation is present, it may exceed the range in subsection (e) above by affirmative vote of four Board members following a hearing.

(g) The Board shall state on the record the facts and specific reasons for the date set imposed.

Statutory Authority: ORS Chapter 144

Variations from the Ranges

254-30-033 (1) The Board may depart from the parameters of the matrix only upon making a specific finding that there is, by a preponderance of the evidence, aggravation or mitigation which justifies departure from the ranges. The Board shall clearly state on the record the facts and specific reasons for variation from the range.

(a) Information considered by the Board in determining whether aggravation or mitigation exists shall be disclosed prior to the hearing, pursuant to rules 254-30-042 and 254-30-043, to permit the prisoner an opportunity to respond before the Board finds aggravation or mitigation.

(b) Usual, but not exclusive, factors in aggravation or mitigation are shown in Exhibit E. The Board may consider circumstances not listed in Exhibit E; however, [such] aggravating circumstances must be of a type which relate to either the severity of the prisoner's offense or the prisoner's criminal history.

(c) Maximum upward or downward variations from a range permitted to a panel are shown in Exhibit D.

(2) Where a panel, based upon its findings pursuant to (1) of this section, 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 indicated in Exhibit D, it shall refer the matter to the full Board for consideration.

(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 applicable maximum variations in Exhibit D, or choosing not to set a parole release date. Maximum upward or downward variations from a range permitted to the full Board are shown in Exhibit D.

(b) [The Board shall clearly state on the record the facts and specific reasons why the normal variation is insufficient.] The ordinary maximum upward or downward variations from a range allowed to the full Board is shown by the larger number in Exhibit D; that number is inclusive of the variation permitted to a panel.

(c) Affirmative votes of at least four members of the Board shall be required to impose, or exceed, the allowable variations in Exhibit D, or in choosing not to set a parole release date.

(d) Before the Board can exceed the variations shown in Exhibit D, the prisoner must be given a hearing before the full Board.

(e) The Board shall clearly state on the record the facts and specific reasons for its decision to exceed the normal variations permitted a panel.

(f) The Board may order further proceedings if it feels additional facts are necessary to make a final decision in choosing not to set a parole release date.

(3) If any of the aggravating or mitigating circumstances listed in Exhibit E shall also constitute a defining element of the crime or subcategory of the crime of which the prisoner was convicted, or are cited in the history/risk calculation, then such circumstance shall not justify variation from the matrix.

(4) Plea Bargained Sentences: If the prisoner has pleaded guilty to the crime or crimes of which he/she was convicted and more serious or other charges have been dismissed, or other crimes have not been charged, then the Board may deem it an aggravating or mitigating circumstance, allowing a variation from the matrix pursuant to rule 254-30-033(1), if the Court has found, or the Board finds, by a preponderance of the evidence, that the defendant's actual criminal conduct was of a different degree of seriousness than the crime of which he/she was convicted. In determining whether the conduct was of a different degree of seriousness, the Board shall consult the rankings of seriousness of crimes set forth in Exhibit A. In such cases, the Board shall state the actual criminal conduct on the record.

(5) Sentence as Aggravating or [Mitigation] Mitigating: The Board shall deem the sentence an aggravating or mitigating circumstance, which allows a variation from the matrix pursuant to rule 254-30-033, if the Board 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 [173.120(2)] 137.120(2) disclose:

(a) the presence of any aggravating or mitigating circumstances described in subsections (3) and (4) above or Exhibit F;

(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.

(6) Restitution: A sentence to pay restitution after a term of imprisonment has been completed shall be considered as mitigating.

Judicial Sentences

254-30-034 (1) When a judge imposes a minimum term of imprisonment upon a prisoner pursuant to ORS 144.110(1), the Board shall not release the prisoner before the minimum has been served except upon affirmative votes of at least four members of the Board.

(2) The Board of Parole shall rely upon any findings of fact determined in the open court to make its determinations relating to offense severity, history/risk score and aggravation and mitigation; it shall consider the Court's reasons for the sentence imposed, unless:

(a) the court applied the rules governing the establishment of the guideline ranges incorrectly,

(b) information is available that was not considered at the time of sentencing,

(c) the court's finding, while technically correct, leads to an inequitable result.

(3) When making a finding contrary to the court, the Board shall provide particularized written reasons for its action.

(4) When a person has been sentenced pursuant to ORS 137.106 to pay restitution, and any portion of that payment is deferred until after release from imprisonment, the Board shall establish a schedule of payments and supervise those payments.

(a) In establishing and supervising a schedule of payments, the Board shall consider:

(i) the prisoner's financial resources, including salary, savings and liquid assets,

(ii) the burden that it will impose in light of the person's overall obligations (e.g., family and necessary living expenses),

- (iii) ability to pay on an installment or other conditional basis,
- (iv) the rehabilitative effect of the payment and the method of payment.

(b) Normal payments shall range from 10 to 20 percent of a person's take-home salary without voluntary payroll deductions unless significant savings or liquid assets permit larger amounts.

(c) Restitution is a form of punishment which requires an offender to assume responsibility for his/her criminal conduct by assuming the costs of compensating the actual victim(s) of the crime, or the State when it has provided compensation to the victim(s), under ORS 147.005 to 147.365. The Board shall consider a sentence to pay restitution after a term of imprisonment as mitigation in setting a parole release date.

(d) Payment of restitution shall be included as a special condition of parole.

(i) Any applicable schedule shall be clearly stated on the Order of Parole.

(ii) Payments shall be made to the clerk of the court of the county of sentencing, or as directed by the Board.

(iii) The method and manner of payment shall be supervised by the individual's parole officer.

(e) When a parolee defaults on any scheduled payment, the default shall be grounds for revocation of parole unless the parolee shows:

(i) the default was not due to an intentional refusal to make the payment,

(ii) the default occurred despite a good faith effort to make the payment.

(f) If payment of restitution has not been completed by the parolee's tentative discharge date, the parolee shall be continued on parole until completion of payment or the expiration of his/her sentence, whichever is first.

Access to Information

254-30-042 (1) In accordance with ORS 192.500(2)(d), inmates will have access to written materials, other than psychiatric or psychological reports, which the State Board of Parole shall consider with respect to the inmate's release on parole, with the following exceptions:

(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) Inmates will have access to psychiatric and psychological reports which are considered by the Board in a hearing concerned with the release or parole of an inmate, 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 inmate 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 information is denied, a written statement of the denial, and the reasons for it, must be entered into the inmate's record.

(5) Written materials subject to disclosure, to be considered by the Board, will be sent to the inmate at the same time the material is made available to the State Board of Parole.

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

Statutory Authority: ORS Chapter 144

Parole Release Date Resets

254-30-050 (1) An established parole release date may be reset to an earlier time upon [recommendation of institution superintendent, Chief of Field Services, or a Board member] application for review to the Chairperson of the Board and after concurrence of a voting majority of the Board, unless the prisoner has been sentenced for an aggravated murder under ORS 163.105.

(a) Reductions in parole release dates will ordinarily be granted only in cases where a prisoner can show an extended course of institutional conduct indicating outstanding reformation. Cases will be determined on individual merits; however, the usual criteria include:

(i) extended period of good conduct (five years), and

(ii) extended, demonstrable achievement in dealing with problems present at incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills).

(b) A prisoner's exercise of recognized constitutional rights or legitimate use of legal process shall not be construed as a lack of good conduct.

(c) Cooperation with authorities is not sufficient in itself to justify a reduction.

(d) Reductions shall be limited to a maximum of 20 percent of the prison term imposed unless at least four Board members approve a further reduction.

(e) A recommendation shall be requested from the institution superintendent on each application (referred to the Board by the Chairperson).

(f) The prisoner shall assume the burden of establishing that his/her conduct is so exemplary as to warrant a date reduction.

(g) A prisoner sentenced to a minimum term for aggravated murder under ORS 163.105 shall be subject to the provisions of that statute.

(2) An established parole release date may be reset to a later date upon recommendation of an institution superintendent or a Board member, and after the concurrence of a quorum of the Board, but only after the prisoner has had an opportunity to appear pursuant to rule 254-30-005, et. seq. A prisoner may waive his/her right to appear in writing or by voluntary absence from the institution.

(3) When the Board is notified by the Administrator of the Corrections Division that an extension of a prisoner's parole release date has been recommended pursuant to the joint Parole Board and Corrections Division rule on "Extension of Parole Release Dates," rule 254-30-055, it shall conduct a hearing to determine whether the misconduct was serious. The prisoner shall have the right to appear accorded in rule 254-30-005 et. seq. (i.e., same procedures shall be followed).

(a) Serious misconduct is misconduct which the Board classifies within one of the four categories listed in the joint Parole Board and Corrections Division rule on "Extension of Parole Release Dates," rule 254-30-055.

(b) A prisoner may not relitigate facts which he/she has had a full opportunity to contest and have been decided against him/her in other forums.

(c) If the Parole Board does not find that all other disciplinary options are inadequate to the seriousness of the misconduct, considering the following factors: (1) effectiveness of the sanction as a disciplinary measure, both to the inmate and to the general institution population, (2) degree of hazard posed by the misconduct to human health and/or life,

institution security, or to property, (3) seriousness of the misconduct had it been committed in the wider community, (4) circumstances of the misconduct, and (5) the inmate's prior record of conduct, the Board may request the prisoner be given another hearing before the institution disciplinary committee originating the recommendation for reset, or choose not to reset the parole release date.

(d) The Board shall clearly state on the record facts and specific reasons for its decision.

(4) The Board may continue the parole hearing and order a psychiatric examination when it appears that a severe emotional disturbance is present. If there is a psychiatric or psychological diagnosis of present severe emotional disturbance, the Board may defer release to a specified future date or refuse to set a release date. In choosing not to set a parole release date, rule 254-30-032 shall control.

(5) The Board shall clearly state on the record the facts and specific reasons for the reset.

(6) The Board may suspend imposition of an extended parole release date upon recommendation of an institution Disciplinary Committee.

Reopening Cases

254-40-012 The Board may reopen any case for reconsideration upon formal written request of a prisoner or motion of a Board member if:

(1) Substantial new information which was unknown at the time of the prison term hearing or could not be contemplated at that time has been received; or

(2) Substantial information that a prisoner, or any other person, willfully concealed or misrepresented information material to a prior Board action has been received.

(3) Statutory changes have reclassified the criminal conduct involved (e.g., reduction of certain categories of Murder to Manslaughter, creation of degrees of Manslaughter).

Statutory Authority: ORS Chapter 144

Revocation Procedures Where Parolee, Out of State

254-70-035 [When a parolee has left the state without permission, or is in custody in a state to which he/she has not been paroled or is in federal custody, his/her parole may be revoked and his/her return may be ordered by the Board without any parole revocation proceedings. If returned to any Corrections Division institution in this state, he/she shall be given a hearing under rule 254-70-045.]

(1) When a parolee is in federal custody, or has left the state to which he/she was paroled without permission and is in custody in another state, the Board may suspend his/her parole and order his/her return without prior parole revocation proceedings.

(2) When a parolee has absconded from supervision, the Board may suspend his/her parole and order his/her return without prior parole revocation proceedings.

(3) Upon the parolee's return to any Corrections Division institution in this state, he/she shall be given a hearing under the provisions of rules 254-70-015 through 254-70-030.

Statutory Authority: ORS Chapter 144

Discharge Generally

254-90-005 The following criteria and matrix shall govern tentative discharge dates to be announced as a part of the hearing wherein parole is ordered and shall be affixed to orders of parole:

(1) Criteria: During the term of active parole indicated in the matrix, the parolee must show evidence of satisfactory parole adjustment.

(2) Matrix:

(a) One-year active parole:

(A) Categories 1 and 2: H/R 11-0

(B) Category 3: H/R 11-3

(C) Category 4: H/R 11-6

(b) Time incarcerated prior to parole order shall equal time on parole to tentative discharge:

(A) Category 3: H/R 2-0

(B) Category 4: H/R 5-0

(C) [Category 5 & 6] Categories 5, 6 and 7: H/R 11-0

Exception: Where time served exceeds 10 years, discharge may occur after 10 years active parole, or expiration, whichever is first. This does not preclude early termination under rule 254-90-010(3) below.

Statutory Authority: ORS Chapter 144

Reducing an Extended Parole Termination Date

254-90-020 An extended parole termination date may be reduced under the following procedures:

(1) Supervising parole officers may make recommendations to the Board of Parole to reduce an extended parole termination date on the basis of the following factors:

(a) the various factors listed in rule 254-30-055(2)(b);

(b) the record of the inmate's conduct since the offense on which the extension was based; and

(c) other factors which are exceptionally mitigating to the situation[;].

(2) The supervising parole officer is responsible for developing such recommendations [in consultation with the superintendent of the institution from which the parolee was paroled] under Field Services procedures.

Statutory Authority: ORS Chapter 144

EXHIBIT A

Part I

Offense Severity Under Rule 30-030

OFFENSE	RATING	FELONY CLASS
163.115 - Murder	7	A
166.005 - Treason	7	A
163.118 - Manslaughter I	6	A
163.235 - Kidnapping I	6	A
163.375 - Rape I (Subcategory 1)*	6	A
163.405 - Sodomy I (Subcategory 1)	6	A
164.415 - Robbery I (Subcategory 1)	6	A
163.185 - Assault I (Subcategory 1)	6	A
164.325 - Arson I (Subcategory 1)	6	A
163.185 - Assault I (Subcategory 2)	5	A
164.325 - Arson I (Subcategory 2)	5	A
164.415 - Robbery I (Subcategory 2)	5	A
162.165 - Escape I	5	B
164.225 - Burglary I (Subcategory 1)	5	A
163.175 - Assault II	4	B
163.225 - Kidnapping II	4	B
163.365 - Rape II (Subcategory 1)	4	B
163.395 - Sodomy II	4	B
164.225 - Burglary I (Subcategory 2)	4	A
167.017 - Compelling Prostitution	4	B
164.405 - Robbery II	4	B
167.207(4) - Criminal Activity in Drugs (Subcategory 1)	4	A
163.275 - Coercion (Subcategory 1)	4	C
164.075 - Theft by Extortion (Subcategory 1)	4	C
163.125 - Manslaughter II	3	B
162.015 - Bribe Giving	3	B
162.025 - Bribe Receiving	3	B
167.207(1) - Criminal Activity in Drugs (Subcategory 1)	3	B
163.425 - Sexual Abuse I	3	C
166.015 - Riot	3	C

OFFENSE	RATING	FELONY CLASS
164.225 - Burglary I (Subcategory 3)	3	A
163.365 - Rape II (Subcategory 2)	3	B
164.215 - Burglary II (Subcategory 1)	3	C
164.055 - Theft I (Subcategory 1)	3	C
164.125 - Theft of Services (Subcategory 1)	3	C
164.085 - Theft by Deception (Subcategory 1)	3	C
165.013 - Forgery I (Subcategory 1)	3	C
162.065 - Perjury	2	C
162.155 - Escape II (Subcategory 1)*	2	C
162.205 - Failure to Appear I	2	C
162.265 - Bribing a Witness	2	C
162.275 - Witness Receiving Bribe	2	C
163.145 - Criminally Negligent Homicide	2	C
163.205 - Criminal Mistreatment	2	C
163.257 - Custodial Interference I	2	C
163.275 - Theft by Coercion (Subcategory 2)	2	C
163.355 - Rape III	2	C
163.385 - Sodomy III	2	C
163.535 - Abandon Child	2	C
164.055 - Theft I (Subcategory 2)	2	C
164.095 - Theft by Receiving	2	C
164.135 - Unauthorized Use of a Motor Vehicle (Subcategory 1)	2	C
164.215 - Burglary II (Subcategory 2)	2	C
164.315 - Arson II	2	C
164.395 - Robbery III	2	C
165.013 - Forgery I (Subcategory 2)	2	C
163.175 - Assault III	2	C
167.207(4) - Criminal Activity in Drugs (Subcategory 3)	2	A
167.207(1) - Criminal Activity in Drugs (Subcategory 2)	2	A
164.125 - Theft of Services (Subcategory 2)	2	C
164.075 - Theft by Deception (Subcategory 2)	2	C
165.095 - Sports Bribery	2	C
165.090 - Sports Bribe Receiving	2	C
166.270 - Ex-convict in Possession	2	C
166.410 - Sale related (firearms)	2	C
166.220 - Carrying a Weapon With Intent to Use	2	C
167.012 - Promoting Prostitution	2	C
167.278 - Obtaining Drugs Unlawfully	2	B
496.992(3) - Poaching (Subcategory 1)	2	C

*See rule 254-30-032(6).

OFFENSE	RATING	FELONY CLASS
162.185 - Supplying Contraband	1	C
162.325 - Hindering Prosecution	1	C
163.515 - Bigamy	1	C
163.525 - Incest	1	C
163.555 - Criminal Nonsupport	1	C
164.065 - Theft: Lost, Mislaid	1	C
164.075 - Theft by Deception (Subcategory 3)	1	C
164.125 - Theft of Services (Subcategory 3)	1	A -\$200 (Misd.) C +\$200
164.365 - Criminal Mischief I	1	C
165.022 - Forged Instrument I	1	C
165.032 - Forgery Device	1	C
165.055 - Fraudulent Use of a Credit Card	1	A -\$200 (Misd.) C +\$200
165.070 - Fraudulent Communication Device	1	C
167.127 - Promoting Gambling	1	C
167.137 - Possession of Gambling Records I	1	C
167.212 - Tampering with Drug Records	1	C
- Welfare Fraud	1	C
- Felony Traffic	1	C
133.723 - Interception of Communication	1	C
[133.723 - Poaching (Salmon, probably 2)]		
496.992(3) - Poaching (Subcategory 2)	1	C
167.207(1) - Criminal Activity in Drugs (Subcategory 3)	1	A
164.215 - Burglary II (Subcategory 3)	1	C
164.135 - Unauthorized Use of a Motor Vehicle (Subcategory 2)	1	C
162.155 - Escape I (Subcategory 2)*	1	C

Conspiracy shall be treated as having the same offense severity as the crime conspired to.

*See rule 254-30-032(6).

EXHIBIT A

Part II

Offense Seriousness Ratings:
Subcategorization of Broad-Scope Offense Categories

MURDER -- ORS 163.115

Felony Class: A

Statutory Elements: Committed intentionally, not under extreme emotional disturbance; committed by person(s) committing, attempting or fleeing from Arson I, Burglary I, Escape I, Kidnapping I, Rape I, Sodomy I, or Robbery.

Subcategory 1 - rating of 7

...Stranger to stranger; cruelty to victim; prior conviction for Murder or Manslaughter; evidence of significant planning or preparation

Subcategory 2 - rating of 7

...All other cases of Murder

RAPE I -- ORS 163.375

Felony Class: A

Statutory Elements: Forcible compulsion; or voluntary intercourse with female under 12; or incestuous voluntary intercourse with female under 16

Subcategory 1 - rating of 6

...Stranger to stranger; aggravated custodial interference; breaking and entering; threat to use or use of a weapon; or actual or attempted serious bodily or emotional harm; or
...Intercourse with female under 12

Subcategory 2 - rating of 5

...All other cases

[Rationale: This recognizes relative degrees of seriousness of violation based on injury, violence, surprise, identity of parties, and the extent of the invasion of victim's privacy.]

SODOMY I -- ORS 163.405

[Sodomy I is the same as Rape I except that deviate sexual intercourse is involved. The breakdown should be the same as for Rape I.] Sodomy I should be broken down in the same manner as Rape I.

ROBBERY I -- ORS 164.415

Felony Class: A

Statutory Elements: Robbery involved either:
armed with a deadly weapon; or
uses or attempts to use dangerous weapon; or
causes or attempts to cause serious injury

Subcategory 1 - rating of 6

...All cases of Robbery I except those fitting Subcategory 2

Subcategory 2 - rating of 5

Cases of robbery where the crime does not involve

...discharge of a firearm; or
...use of any other dangerous weapon; or
...explicit and immediate threats, by word or gesture (e.g., cocking hammer of
gun), of death or serious bodily harm; or
...serious injury

[Rationale: This raises to a 6 the more serious cases of robbery, viz. where
there is use of a weapon, menacing or serious injury.]

ASSAULT I -- ORS 163.185

Felony Class: A

Statutory Elements: [Actual serious injury under circumstances evidencing
extreme indifference to human life] Intentional serious
injury to another by means of a deadly or dangerous
weapon

Subcategory 1 - rating of 6

...All cases of Assault I except those fitting Subcategory 2

Subcategory 2 - rating of 5

...Cases of Assault I in which the victim or victims provoked the crime to
a substantial degree, or other evidence that misconduct by victim contributed
substantially to the criminal episode.

[Rationale: This raises unprovoked cases of Assault I to a 6.]

ARSON I -- ORS 164.325

Felony Class: A

Statutory Elements: Arson involving either:
property of another which is customarily occupied by
people; or own property, if persons are endangered or
if other customarily occupied property is also endangered

ARSON I (Continued)

Subcategory 1 - rating of 6

...Knowing the premises were occupied at time of act; or
...Actual serious injury

Subcategory 2 - rating of 5

...Other cases of Arson I

[Rationale: This raises by one grade to 6 cases of arson where the arsonist either knew the premises were occupied or where serious injury actually resulted. Because of the actual injury or extreme risk involved in such cases, these seem to be more serious.]

BURGLARY I -- ORS 164.225

Felony Class: A

Statutory Elements: Burglary involving either:
entry of a dwelling; or else
entry of a building, if defendant is armed/carries
burglar's tools/causes or threatens injury/or use of a
dangerous weapon

Subcategory 1 - rating of 5

Entry into any actually or regularly occupied building, whether a dwelling or non-dwelling, where defendant

...Used or threatened to use, by word or gesture, a dangerous weapon; and
...caused or threatened serious physical injury

Subcategory 2 - rating of 4

...Entry into a non-dwelling in which value of goods taken is over \$5,000
...Entry into a residence or temporary residence, except for cases fitting
Subcategory 3

Subcategory 3 - rating of 3

...All other entries into a non-dwelling; or
...Entry into a residence or temporary residence in which

...Defendant is not armed with a deadly or dangerous weapon; and
...No extensive property damage; and
...Value of goods taken was below \$1,000

[Rationale: This would give a level 5 to burglaries where the burglar threatens or seriously injures occupants. It would give a level of 4 to the more serious home burglaries not involving a weapon and confrontation, namely those in which

BURGLARY I (Continued)

the place was ransacked or valuable goods were taken. It would give a level 3 to the less serious home burglaries, namely those in which there was no weapon, no ransacking, and the goods taken were under \$1,000. A typical example would be an unarmed breaking and entry of a house while the occupants were absent, and theft of a television set. It would give a level of 3 also to cases not involving invasions of privacy (e.g., entry into a warehouse).]

RAPE II -- ORS 163.365

Felony Class: B

Statutory Elements: Nonforcible intercourse involving:
incapacitated (e.g., mentally defective) female; or
female under 14 (i.e., 12 or 13)

Subcategory 1 - rating of 4

...All cases of Rape II except those fitting Subcategory 2

Subcategory 2 - rating of 3

...Not both under 16 and incapacitated; and
...No coercion or undue influence (e.g., father, step-father); and
...No position of trust (e.g., counselor, doctor)

[Rationale: The rating of 4 seems appropriate for cases of statutory rape where there was coercion or undue influence or misuse of a position of trust, or where the female was underage and mentally defective, as these all involve strong elements of involuntariness. However, voluntary intercourse with a 12- or 13-year-old girl and voluntary sexual intercourse with a woman over 16 who was incapacitated seem less serious, and this gives a ranking of 3.]

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) -- ORS 167.207(4)

Felony Class: A

Statutory Elements: Furnishing a narcotic or dangerous drug to a person
under 18 by an adult at least three years older

Subcategory 1 - rating of 4

...Furnishing heroin or opiate derivatives; or
...Sale for profit of any drug

CRIMINAL ACTIVITY IN DRUGS (INVOLVING MINORS) (Continued)

Subcategory 2 - rating of 3

...Furnishing any other drug except those fitting in Subcategory 3

Subcategory 3 - rating of 2

...Furnishing less than one ounce of marijuana

[Rationale: This treats transfer of addictive drugs or drug dealing with minors as more serious than normal and sales of less than an ounce of marijuana as less serious.]

CRIMINAL ACTIVITY IN DRUGS (OTHER) -- ORS 167.207(1)

Felony Class: B

Statutory Elements: Manufacture, cultivation, sale or possession of any narcotic or dangerous drug (other than possession of less than one ounce of marijuana)

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

[Rationale: This retains the rating of 3 for dealing in narcotics, which involves higher social damage than other drugs. It gives a rating of 2 for dealing in non-addictive drugs. Possession of any drug for own use is given a 1, as this primarily involves self-injury. Reliance, though not exclusive, is to be placed on the judicial sentencing findings to determine the above elements with the burden on the defendant to show manufacture or possession for own use.]

BURGLARY II -- ORS 164.215

Felony Class: C

Statutory Elements: Any illegal entry, if not a Burglary I, with intent to commit a crime therein

BURGLARY II (Continued)

Subcategory 1 - rating of 3

...Theft or destruction of over \$5,000

Subcategory 2 - rating of 2

...Theft or destruction of between \$1,000 and \$5,000

Subcategory 3 - rating of 1

...Theft or destruction of less than \$1,000

[Rationale: These are illicit entries which neither involve a dwelling nor a high risk (no gun) nor professionalism (no burglar's tools). Thus, they seem to be closely akin to simple theft (see below) and are treated as such.]

THEFT I -- ORS 164.055

Felony Class: C

Statutory Elements: Theft involving:
more than \$200; or
during a riot or catastrophe; or
theft by receiving; or
of a livestock animal; or
of a firearm or explosive

Subcategory 1 - rating of 3

...Theft or receiving of over \$5,000

Subcategory 2 - rating of 2

...Theft or receiving of \$1,000 to \$5,000
...Theft of a firearm or explosive
...Theft of a livestock animal
...Theft during riot or catastrophe

Subcategory 3 - rating of 1

...Other thefts (i.e., thefts under \$1,000)

[Rationale: This raises thefts of large amounts (over \$5,000) to a 3. It reduces relatively small thefts (less than \$1,000, but more than \$200).]

THEFT OF SERVICES -- ORS 164.125

The breakdown should be the same as for ordinary Theft.

THEFT BY DECEPTION -- ORS 164.085

The breakdown should be the same as for ordinary Theft.

THEFT BY EXTORTION -- ORS 164.075

Felony Class: C

Statutory Elements: Extortion through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

[Rationale: Extortion involving threats of serious personal injury is clearly more serious.]

COERCION -- ORS 163.275

Felony Class: C

Statutory Elements: Compelling another to act through threat of serious physical harm or property damage; blackmail

Subcategory 1 - rating of 4

...Threat of serious bodily harm or death

Subcategory 2 - rating of 3

...All others

[Rationale: Coercion involving threats of serious personal injury is clearly more serious.]

UNAUTHORIZED USE OF A MOTOR VEHICLE -- ORS 164.135

Felony Class: C

Statutory Elements: Joyriding, unauthorized exercise of control over vehicle

Subcategory 1 - rating of 2

...Loss, destruction or severe damage to vehicle or to property; or
...Injury to others

Subcategory 2 - rating of 1

...Other

[Rationale: This reduces to 1 simple joyriding where the vehicle is recovered and no property damage is done to others and no one is hurt.]

FORGERY I -- ORS 165.013

Felony Class: C

The breakdown should be based on the amounts involved in the same manner as theft.

Note: For this crime and other theft crimes, the amounts involved would be based on the amounts for which each defendant has been convicted or has admitted.

POACHING -- ORS 496.992(3)

Felony Class: [1] C

Statutory Elements: Second and each subsequent conviction within a ten-year period for taking of game fish or game mammals with a value of \$200

Subcategory 1 - rating of 2

...Poaching of game valued over \$3,000; or
...Commercial operation

POACHING (Continued)

Subcategory 2 - rating of 1

...Other

[Rationale: This raises the rating to 2 for large-scale commercial poaching.]

ESCAPE II -- ORS 162.155

Felony Class: C

Statutory Elements: Escape from custody where individual:
uses or threatens to use physical force; or
the confinement is due to a finding of guilt of a felony; or
escape is from a correctional facility

Subcategory 1 - rating of 2

...All cases of Escape except those fitting Subcategory 2

Subcategory 2 - rating of 1

...Escapes from a minimum custody situation in a correctional facility for
no more than 30 days (e.g., walkaways from Prison Farm, Work Release Center,
outside custody at DSP)

[Rationale: Short-term walkaways from minimum custody situations are less serious. However, they are of sufficient seriousness to be treated under appropriate matrix ranges.]

EXHIBIT B

Criminal History/Risk Assessment Under Rule 30-031

ITEM	SCORE
(A) No prior felony or misdemeanor convictions as an adult or juvenile:*	3
One prior conviction:	2
Two or three prior convictions:	1
Four or more prior convictions:	0 _____
(B) No prior 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) Age at first commitment of 90 days or more:**	
26 or older:	2
19 through 25:	1
18 or younger:	0 _____
(D) Never escaped, failed parole or probation:***	2
One incident of the above:	1
Any two or more incidents of the above:	0 _____
(E) Has no admitted or documented heroin or opiate derivative abuse problem, or has no admitted or documented alcohol problem:	1
One or more of the above:	0 _____
(F) Verified period of 5 years conviction free in the community prior to present offense:	1
Otherwise:	0 _____
TOTAL HISTORY/RISK ASSESSMENT SCORE:	=====

*Do not count convictions over 20 years old, convictions that have been pardoned, or juvenile or adult "status offenses" (runaway, truancy, incorrigibility, drunk in public).

**If no prior commitment, use age at present conviction.

***Count probation failure only if it resulted from new crime; count any parole failure.

EXHIBIT C

Time to be Served Under Rule 30-032

OFFENSE SEVERITY RATING	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
	11-9	8-6	5-3	2-0
	Excellent	Good	Fair	Poor
(All ranges in Categories 1-6 shown in months)				
Category 1 - - - - -	-6	-6	6-12 (4-8)*	12-22 (8-18)
Category 2 - - - - -	-6	6-10 (4-8)	10-18 (8-14)	18-28 (14-24)
Category 3 - - - - -	6-10 (4-8)	10-16 (8-12)	16-24 (12-20)	24-36 (20-32)
Category 4 - - - - -	10-16 (8-12)	16-22 (12-18)	22-30 (16-24)	30-48 (24-42)
Category 5 - - - - -	18-24	24-30 (20-26)	30-48 (26-40)	48-72 (40-62)
Category 6 - - - - -	36-48	48-60	60-86	86-144
**Category 7 - - - - -				
<u>Subcategory 2</u>	<u>8-10 yrs</u>	<u>10-13 yrs</u>	<u>13-16 yrs</u>	<u>16-20 yrs</u>
<u>Subcategory 1</u>	<u>10-14 yrs</u>	<u>14-19 yrs</u>	<u>19-24 yrs</u>	<u>24-Life</u>

*Months in parentheses represent range for youthful offenders (21 or younger at time of conviction).

**The following circumstances will result in a minimum set of 30 years: multiple victims, extreme cruelty, contract murder, prior manslaughter or murder conviction and terrorism.

EXHIBIT D

Maximum Variations from the Ranges under Rule 30-033

	11-9	8-6	5-3	2-0
	Excellent	Good	Fair	Poor

OFFENSE SEVERITY RATING

(All ranges in Categories 1-6 shown in months)

[Category 1 - - - - -	±2	±2	±3	±4]
[Category 2 - - - - -	±2	±3	±4	±6]
[Category 3 - - - - -	±3	±4	±6	±8]
[Category 4 - - - - -	±4	±6	±8	±10]
[Category 5 - - - - -	±6	±8	±10	±14]
[Category 6 - - - - -	±12	±14	±18	±24]
[Category 7 - - - - -	±2 years	±2 years	±2 years	-2/NA]

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EXHIBIT D

Maximum Variations from the Ranges Under Rule 30-033

CRIMINAL HISTORY/RISK ASSESSMENT SCORE

11-9	8-6	5-3	2-0
Excellent	Good	Fair	Poor

OFFENSE SEVERITY RATING		(All ranges in Categories 1-6 shown in months)			
<u>Category 1</u>	Panel	+2	+2	+3	+4
	Full Board	<u>+4*</u>	<u>+4</u>	<u>+6</u>	<u>+8</u>
<u>Category 2</u>	Panel	+2	+3	+4	+6
	Full Board	<u>+4</u>	<u>+6</u>	<u>+8</u>	<u>+12</u>
<u>Category 3</u>	Panel	+3	+4	+6	+8
	Full Board	<u>+6</u>	<u>+8</u>	<u>+12</u>	<u>+16</u>
<u>Category 4</u>	Panel	+4	+6	+8	+10
	Full Board	<u>+8</u>	<u>+12</u>	<u>+16</u>	<u>+20</u>
<u>Category 5</u>	Panel	+6	+8	+10	+14
	Full Board	<u>+12</u>	<u>+16</u>	<u>+20</u>	<u>+26</u>
<u>Category 6</u>	Panel	+12	+14	+18	+24
	Full Board	<u>+24</u>	<u>+26</u>	<u>+30</u>	<u>+36</u>
<u>Category 7</u>	Panel	+2 years	+2 years	+2 years	-2 years/NA
	Full Board	<u>+3 years</u>	<u>+3 years</u>	<u>+3 years</u>	<u>+3 years/NA</u>

*This figure indicates maximum upward or downward variations that may ordinarily be imposed by a full Board.

(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.

Temporary effective 11/13/86 to 12/1/86.
Revert to previous rule until 3/25/88.

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-015 Panels: When a Two-Member Panel Conducts a Prison Term Hearing; When Full Board is Required; Procedures for Full Board Decision

- (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 [or member] 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.

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 or member 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 year is recommended.



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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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.]

Repealed

Permanent effective 5/19/88

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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.]

Temporary effective 3/25/88 to 9/20/88
superceded by 5/19/88 permanent filing

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.

Previous amendments suspended
Temporary effective 12/2/86 to 5/30/87

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.]

Temporary effective 11/13/86 to 12/1/86.
Reverts back to previous rule until
suspended 3/25/88

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-020 Procedures for Full Board Decisions

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 exceeding the normal variations permitted to the full Board in Rule 255-35-035;]
 - (b)[(c)] The Board considers denying parole, except when denial is because the guideline range exceeds the good time date on a sentence;
 - (c)[(d)] 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.
- [(4) In all other cases, the Board may:
 - (a) Circulate the record to be considered with a copy of the proposed action for comment and voting by the individual Board members; or
 - (b) Decide the matter at a business meeting at which a quorum is present.
- (5) A simple majority vote of the Board shall be required to reach a decision except when a vote of four members is required by statute or rule.]

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 exceeding the normal variations permitted to the full Board in rule 255-35-035;

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

(d) Extending a prison term, in any case, for longer than one 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.

(4) In all other cases, the Board may:

(a) Circulate the record to be considered with a copy of the proposed action for comment and voting by the individual Board members; or

(b) Decide the matter at a business meeting at which a quorum is present.

(5) A simple majority vote of the Board shall be required to reach a decision except when a vote of four members is required by statute or rule.

Stat. Auth.: ORS Ch. 144

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

Permanent effective 2/1/79



Teleconference Hearing
255-30-021

At the [discretion of the] chairperson's discretion, the Board or its designated representative may conduct any hearing [may be conducted] by teleconference call.

Statutory Authority: (ORS 144.035(5))

History: (5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92)

Permanent effective 10/9/92

DIVISION 30

PRISON TERM HEARING PROCEDURE

Teleconference Hearing
255-30-021

At the discretion of the chairperson, any hearing may be conducted by teleconference call.

- [(1) A prisoner in custody in another jurisdiction may have a hearing by teleconference call, or may be returned to Oregon for a hearing.
- (2) A prisoner who resides outside of Marion County may have a hearing by teleconference call.]

11/01/89

3 Permanent effective 11/1/89

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

[Procedures for Hearings Involving Out of State Jurisdictions]
Teleconference hearing
255-30-021

- (1) A prisoner in custody in another jurisdiction may have a hearing [be returned to Oregon or heard] by teleconference call, or may be returned to Oregon for a hearing. [whether a full board or panel is applicable.]
- (2) A prisoner who resides outside of Marion County may have a hearing by teleconference call.

Permanent effective 5/19/88

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.

Temporary effective 12/2/86 to 5/30/87;
became Permanent effective 4/28/87

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-021 Procedures for Hearings Involving Out of State
Jurisdictions

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



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0023

Prisoner Appearance at Board Hearing

- (1) The inmate shall be present in person or by telephone at the Parole Board hearing.
- (2) The Board may compel an inmate's appearance when a inmate refuses to appear.
- (3) The Board may elect not to compel the inmate to attend the hearing. In this instance, the Board may reschedule the hearing, or set the prison term in the inmate's absence.

Statutory Authority: ORS 144.035(5), 144.120

History: (5/19/88; 11/1/89; 2/20/90, temporary; 7/1/90; 10/9/92, 03/14/97)

Permanent effective 3/14/97

Prisoner Appearance at Board Hearing

255-30-023

- (1) The prisoner shall be present in person or by telephone at the Parole Board hearing.
- (2) The Board may compel a prisoner's appearance when [A] a prisoner [who] refuses to appear [may be compelled to do so by the Board]
- (3) The Board may elect not to compel the prisoner to attend the hearing. In this instance, the Board may reschedule the hearing [to see the prisoner at a later date], or set the prison term in the prisoner's absence.

Statutory Authority: (ORS 144.035(5), 144.120)

History: (5/19/88; 11/1/89; 2/20/90, temporary; 7/1/90; 10/9/92)

Permanent effective 10/9/92

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prisoner Appearance at Board Hearing
255-30-023

(5/19/88; 11/1/89;

- (1) The prisoner shall be present in person or by telephone at the Parole Board hearing.
- (2) A prisoner who refuses to appear may be compelled to do so by the Board.
- (3) The Board may elect not to compel the prisoner to attend the hearing. In this instance, the Board may reschedule the hearing to see the prisoner at a later date, or set the prison term in the prisoner's absence.
- [(4) Notwithstanding subsections 1 - 3 of this rule, a prisoner sentenced to a Class C non-person-to-person felony may waive his/her right to a prison term hearing.
 - (a) Within the time limits provided by 255-30-010, the prison term may be set administratively.
 - (b) If the Board is not satisfied that the waiver was made knowingly or intelligently or if it believes more information is necessary before making its decision, the Board may deny the waiver and order a hearing.]

Temporary effective 2/20/90 to 8/1/90
became permanent 7/1/90

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prisoner Appearance at [Parole] Board Hearing
255-30-023

- (1) The prisoner shall be present in person or by telephone at the Parole Board hearing.
- (2) A prisoner who refuses to appear may be compelled to do so by the Board.
- (3) The Board may elect not to compel the prisoner to attend the hearing. In this instance, the Board may reschedule the hearing to see the prisoner at a later date, or set the prison term in the prisoner's absence.
- (4) Notwithstanding subsections 1 - 3 of this section, a prisoner sentenced to a Class C non-person-to-person felony may waive his/her right to a prison term hearing. Within the time limits provided by 255-30-010, the prison term may be set administratively. If the Board is not satisfied that the waiver was made knowingly or intelligently or if it believes more information is necessary before making its decision, the Board may deny the waiver and order a hearing.

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prisoner Appearance at Parole Board Hearing
255-30-023

- (1) The prisoner shall be present in person or by telephone at the Parole Board hearing.
- (2) A prisoner who refuses to appear may be compelled to do so by the Board.
- (3) The Board may elect not to compel the prisoner to attend the hearing, in this instance, the Board may reschedule the hearing to see the prisoner at a later date, or set the prison term in the prisoner's absence.



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0024

Prison Term Hearing Waiver

- (1) Notwithstanding OAR 255-030-0023, an inmate may waive his/her right to a prison term hearing based on the following criteria:
 - (a) Sentence of less than 15 years; and
 - (b) Non-person felony (The non-person felonies are designated on Exhibit A1 of these rules.); and
 - (c) Matrix range of up to 14 - 20 months; and
 - (d) Completed Prison Term Hearing Packet.
- (2) Within the time limits provided by OAR 255-030-0010, the Board, at its discretion, may notify the inmate in writing of:
 - (a) his/her eligibility to waive the prison term hearing; and
 - (b) the proposed prison term and conditions of parole.
- (3) A Department of Corrections counselor will review the Prison Term Hearing Packet and the waiver form with the inmate.
- (4) Upon receipt of a signed waiver, the Board shall make the findings required by OAR 255-035-0013 or 255-035-0014 and shall send the final Board order to the inmate.
- (5) If the Board is not satisfied that the waiver was made knowingly and intelligently or if it needs more information before making its decision, the Board may deny the waiver and order a hearing.

Statutory Authority: ORS 144.120(1)(b)

History: (2/20/90, temporary; 7/1/90; 10/15/91, 03/14/97, 06-09-00)

Permanent effective 06/09/2000

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0024

Prison Term Hearing Waiver

- (1) Notwithstanding OAR 255-30-023, an inmate may waive his/her right to a prison term hearing based on the following criteria:
 - (a) Sentence of less than 15 years; and
 - (b) Non-person felony (The non-person felonies are designated on Exhibit A1 of these rules.); and
 - (c) Matrix range of up to 14 - 20 months; and
 - (d) Completed Prison Term Hearing Packet.
- (2) Within the time limits provided by OAR 255-30-010, the Board, at its discretion, may notify the inmate in writing of:
 - (a) his/her eligibility to waive the prison term hearing; and
 - (b) the proposed prison term and conditions of parole.
- (3) A Department of Corrections counselor will review the Prison Term Hearing Packet and the waiver form with the inmate.
- (4) Upon receipt of a signed waiver, the Board shall make the findings required by OAR 255-035-013 or 255-35-014 and shall send the final Board order to the inmate.
- (5) If the Board is not satisfied that the waiver was made knowingly and intelligently or if it needs more information before making its decision, the Board may deny the waiver and order a hearing.

Statutory Authority: ORS 144.120(1)(b)

History: (2/20/90, temporary; 7/1/90; 10/15/91, 03/14/97)

03/14/97

Prison Term Hearing
Permanent effective 3/14/97

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prison Term Hearing Waiver (ORS 144.120(1)(b))
255-30-024 (2/20/90, temporary; 7/1/90; 10/15/91)

- (1) Notwithstanding OAR 255-30-023, a prisoner may waive his/her right to a prison term hearing based on the following criteria:
 - (a) Sentence of less than 15 years [or less]; and
 - (b) Non-person felony (The non-person felonies are designated on Exhibit AI of these rules.); and
 - (c) Matrix range of up to 14 - 20 months; and
 - (d) Completed Prison Term Hearing Packet.
- (2) Within the time limits provided by 255-30-010, the Board, at its discretion, [will] may notify the prisoner in writing of:
 - (a) his/her eligibility to waive the prison term hearing; and
 - (b) [of] the proposed prison term and conditions of parole.
- (3) A Department of Corrections counselor will review the Prison Term Hearing Packet and the waiver form with the prisoner.
- (4) Upon receipt of a signed waiver, the Board [will] shall make the findings required by OAR 255-035-013 or 255-35-014 and [will] shall send the final Board order to the prisoner.
- (5) If the Board is not satisfied that the waiver was made knowingly and intelligently or if it [believes] needs more information [is necessary] before making its decision, the Board may deny the waiver and order a hearing.

Prison Term Hearing

Permanent effective 10/15/91

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prison Term Hearing Waiver
255-30-024

- (1) Notwithstanding OAR 255-30-023, a prisoner may waive his/her right to a prison term hearing based on the following criteria:
 - (a) Sentence of 15 years or less; and
 - (b) Non-person felony (The non-person felonies are designated on Exhibit A of these rules.); and
 - (c) Matrix range of up to 14 - 20 months; and
 - (d) Completed Prison Term Hearing Packet.
- (2) Within the time limits provided by 255-30-010, the Board, at its discretion, will notify the prisoner in writing of his/her eligibility to waive and of the proposed prison term and conditions of parole.
- (3) A Department of Corrections counselor will review the Prison Term Hearing Packet and the waiver form with the prisoner.
- (4) Upon receipt of a signed waiver, the Board will make the findings required by OAR 255-035-013 or 255-35-014 and will send the final Board order to the prisoner.
- (5) 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, the Board may deny the waiver and order a hearing.

Temporary effective 2/20/90 to 8/1/90
became permanent 7/1/90



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0025

Who May Appear at a Board Hearing

- (1) This is a joint rule with the Department of Corrections.
- (2) The inmate may be accompanied at a Board of Parole and Post-Prison Supervision hearing by a person of the inmate's choice, however, the accompanist must be:
 - (a) approved for visiting according to Department of Corrections rules on visiting (OAR 291-127[-005 to 045]); or
 - (b) an assigned inmate legal assistant, selected pursuant to Department of Corrections rules (OAR 291-139[-005 to 045]), from the institution where the inmate is in custody.
- (3) In addition to a person of the prisoner's choice, an assistant shall be provided by the Department of Corrections or the Board for inmates incapable of presenting their position due to a foreign language barrier, or a documented physical, mental or emotional incapacity.
- (4) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, parole officer and institution counselor shall have the right to appear at hearings.
- (5) Any member of the public, including the media, may attend Board hearings, but may not participate. The Board may eject any disruptive person from a hearing. The Board may require all parties other than the Board and its staff to leave the hearing during deliberations. All parties shall abide by Department of Corrections' rules while attending hearings within Department of Corrections' facilities.

Statutory Authority: ORS 144.123, 144.120(7)

History: (2/1/79; 11/4/81, temporary; 5/19/82; 12/2/86, temporary; 4/28/87; 5/19/88; 4/5/90; 10/9/92, 03/14/97, 06-09-00)

Permanent effective 06/09/2000

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0025

Who May Appear at a Board Hearing

- (1) This is a joint rule with the Department of Corrections.
- (2) The inmate may be accompanied at a Board of Parole and Post-Prison Supervision hearing by a person of the inmate's choice, however, the accompanist must be:
 - (a) approved for visiting according to Department of Corrections rules on visiting (OAR 291-127-005 to 045); or
 - (b) an assigned inmate legal assistant, selected pursuant to Department of Corrections rules (OAR 291-139-005 to 045), from the institution where the inmate is in custody.
- (3) In addition to a person of the prisoner's choice, an assistant shall be provided by the Department of Corrections or the Board for inmates incapable of presenting their position due to a foreign language barrier, or a documented physical, mental or emotional incapacity.
- (4) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction shall have the right to appear at hearings.
- (5) Any member of the public, including the media, may attend Board hearings, but may not participate. The Board may eject any disruptive person from a hearing. The Board may require all parties other than the Board and its staff to leave the hearing during deliberations. All parties shall abide by Department of Corrections' rules while attending hearings within Department of Corrections' facilities.

Statutory Authority: ORS 144.123, 144.120(7)

History: (2/1/79; 11/4/81, temporary; 5/19/82; 12/2/86, temporary; 4/28/87; 5/19/88; 4/5/90; 10/9/92, 03/14/97)

Permanent effective 3/14/97

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Who May Appear at a Board Hearing
255-30-025

- (1) This is a joint rule with the Department of Corrections.
- (2) The prisoner may be accompanied at a Board of Parole and Post-Prison Supervision hearing by a person of the prisoner's choice, however, the accompanist must be:
 - (a) approved for visiting according to Department of Corrections rules on visiting (OAR 291-127-005 to -045); or
 - (b) an assigned inmate legal assistant, selected pursuant to Department of Corrections rules (OAR 291-139-005 to -045), from the institution where the prisoner is in custody.
- (3) In addition to a person of the prisoner's choice, an assistant shall be provided by the Department of Corrections or the Board for prisoners incapable of presenting their position due to a foreign language barrier, or a documented physical, mental or emotional incapacity.
- (4) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction shall have the right to appear at hearings.
- (5) Any member of the public, including the media, may attend Board hearings, but may not participate. The Board may eject any disruptive person from a hearing. The Board may require all parties other than the Board and its staff to leave the hearing during deliberations. All parties shall abide by Department of Corrections' rules while attending hearings within Department of Corrections' facilities.

Statutory Authority: (ORS 144.123, 144.120(7), 192.630)
History: (2/1/79; 11/4/81, temporary; 5/19/82; 12/2/86, temporary;
4/28/87; 5/19/88; 4/5/90; 10/9/92)

Permanent effective 10/9/92

Who May Appear at a Board Hearing

255-30-025 (2/1/79; 11/4/81, temporary; 5/19/82; 12/2/86, temporary;
4/28/87; 5/19/88; 4/5/90)

- (1) This is a joint rule with the Department of Corrections.
- (2) The prisoner may be accompanied at a Board of Parole and Post-Prison Supervision hearing by a person of the prisoner's choice (.), however, the accompanist must be:
 - (a) approved for visiting according to Department of Corrections rules on visiting (OAR 291-127-005 to -045); or
 - (b) an assigned inmate legal assistant, selected pursuant to Department of Corrections rules (OAR 291-139-005 to -045), from the institution where the prisoner is in custody. [Procedures for admission to a Parole Board hearing will be governed by the Department of Corrections rule governing visiting.]
- (3) In addition to a person of the prisoner's choice, an assistant shall be provided by the Department of Corrections or the Board for [Assistance shall be provided to] prisoners incapable of presenting their position due to a foreign language barrier, or a documented physical, mental or emotional incapacity.
- [(3) If the prisoner has an assistant provided pursuant to subsection (2) of this rule, this shall not preclude the prisoner from being accompanied to the hearing by a person of the prisoner's choice.]
- (4) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction shall have the right to appear at [Parole Board] hearings.

Permanent effective 4/5/90

DIVISION 30

PRISON TERM HEARING PROCEDURE

Who May Appear at a [Parole] Board Hearing
255-30-025

- (1) The prisoner may be accompanied at a Board of Parole and Post-Prison Supervision hearing by a person of the prisoner's choice [.] , however, the accompanist must be:
 - (a) approved for privileged visiting according to Department of Corrections rules on visiting (OAR 291-127-005 to -065); or
 - (b) an assigned inmate legal assistant, selected pursuant to Department of Corrections rules (OAR 291-139-005 to 045), from the institution where the prisoner is in custody. [Procedures for admission to a Parole Board hearing will be governed by the Department of Corrections rule governing visiting.]
- (2) In addition to a person of the prisoner's choice, an assistant shall be provided by the Department of Corrections or the Board of Parole for [Assistance shall be provided to] prisoners incapable of presenting their position due to a foreign language barrier, or a documented mental or emotional incapacity.
- [(3) If the prisoner has an assistant provided pursuant to subsection (2) of this rule, this shall not preclude the prisoner from being accompanied to the hearing by a person of the prisoner's choice.]
- (4) The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction shall have the right to appear at [Parole] Board Hearings.

11/01/89

4

Permanent effective 11/1/89

DIVISION 30

PRISON TERM HEARING PROCEDURE

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.]
- (1) [(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] Department of Corrections rule governing visiting. [At the conclusion of the hearing, the person accompanying the prisoner may make a statement, not to exceed three (3) minutes.]
- (2) [(3)] Assistance shall be provided to prisoners incapable of presenting their position due to a foreign language barrier[s], or a documented mental or emotional incapacity [or educational deficiency].
- (3) [(4)] If the prisoner has an assistant provided pursuant to subsection (2) of this rule, this shall not preclude the prisoner from being accompanied to the hearing by a person of the prisoner's choice.
- (4) [(5)] The victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction shall have the right to appear at Parole Board Hearings.

Permanent effective 5/19/88

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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.

Temporary effective 12/2/86 to 5/30/87

became Permanent effective 4/28/87

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-025 Who May Appear at a Parole Board Hearing

- (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. [unless the prisoner waives parole in writing or by refusal to appear. The Board may choose not to set a release date if the prisoner waives parole. However, the prisoner, shall be rescheduled for a hearing upon written request from the prisoner who previously waived.]
- (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) [five] 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 [assistance] appointed by the chairperson pursuant to this rule, this shall not preclude the prisoner being accompanied to the hearing by a person of the prisoner's choice.

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Who May Appear at a Parole Board Hearing

255-30-025(1) The prisoner shall appear at the Parole Board hearing unless the prisoner waives parole in writing [.] or by refusal to appear. The Board may choose not to set a release date if the prisoner waives parole. However, the prisoner, shall be rescheduled for a hearing upon written request from the prisoner who previously waived.

[(2) No person other than the prisoner, shall appear in the prisoner's behalf unless the prisoner is incapable of presenting his/her position due to language barriers, mental or emotional incapacity, or education deficiency. Assistance shall be provided to prisoners meeting these criteria by persons recommended by the institution superintendent and appointed by the Chairperson of the Board.]

(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 five 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.

1.) If the prisoner needs assistance and has an assistant appointed by the chairperson pursuant to this subsection, this shall not preclude the prisoner being accompanied to the hearing by a person of the prisoner's choice.

Permanent effective 5/19/87

Who May Appear at a Parole Board Hearing

255-30-025(1) The prisoner shall appear at the Parole Board hearing unless the prisoner waives parole in writing [.] or by refusal to appear. The Board may choose not to set a release date if the prisoner waives parole. However, the prisoner, shall be rescheduled for a hearing upon written request from the prisoner who previously waived.

[(2) No person other than the prisoner, shall appear in the prisoner's behalf unless the prisoner is incapable of presenting his/her position due to language barriers, mental or emotional incapacity, or education deficiency. Assistance shall be provided to prisoners meeting these criteria by persons recommended by the institution superintendent and appointed by the Chairperson of the Board.]

(2) The prisoner may be accompanied by a person of the prisoner's choice, subject to rules and procedures of the Corrections Division. The person accompanying the prisoner may make a statement, not to exceed five 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 subsection, this shall not preclude the prisoner being accompanied to the hearing by a person of the prisoner's choice.

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Who May Appear at a Prison Term Hearing

255-30-025 (1) The prisoner shall appear at the prison term hearing unless he/she waives appearance in writing.

(2) No person, other than the prisoner, shall appear in the prisoner's behalf unless the prisoner is incapable of presenting his/her position due to language barriers, mental or emotional incapacity, or educational deficiency. Assistance shall be provided to prisoners meeting these criteria by persons recommended by the institution superintendent and appointed by the chairperson of the Board.

Stat. Auth.: ORS Ch. 144

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



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0027

Victim, District Attorney and Inmate Statements

- (1) During the hearing, the victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, parole officer and institution counselor may make statements not to exceed three minutes.
- (2) Following the victim and the District Attorney statements, the person accompanying the inmate may make a statement not to exceed three minutes.

Statutory Authority: ORS 144.120(7)

History: (12/2/86, temporary; 4/28/87; 5/19/88; 1/13/92, 03/14/97, 06-09-00)

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0027

Victim, District Attorney and Inmate Statements

- (1) During the hearing, the victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, may make statements not to exceed three minutes.
- (2) Following the victim and the District Attorney statements, the person accompanying the inmate may make a statement not to exceed three minutes.

Statutory Authority: ORS 144.120(7)

History: (12/2/86, temporary; 4/28/87; 5/19/88; 1/13/92, 03/14/97)

255-030-0030

Panel Decision: Use of Guidelines; Unanimity Requirement

History: (2/1/79; 5/31/85; 5/19/88, repealed)

03/14/97

Prison Term Hearing

Permanent effective 3/14/97

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Victim, District Attorney and Inmate Statements
255-30-027

- (1) [At the conclusion of] During the hearing, the victim, personally, by counsel, or by representative, and the District Attorney from the committing jurisdiction, may make statements not to exceed three minutes.
- (2) Following the victim and the District Attorney statements, the person accompanying the prisoner may make a statement not to exceed three minutes.

Statutory Authority: (ORS 144.120(7))
(12/2/86, temporary; 4/28/87; 5/19/88; 1/13/92)

Permanent effective 1/13/92

DIVISION 30

PRISON TERM HEARING PROCEDURE

Victim, [and] District Attorney and Inmate 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 not to exceed three minutes.
- (2) Following the victim and the District Attorney statements, the person accompanying the prisoner may make a statement not to exceed three minutes. [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 appearances shall be included in the Board Review Packet.]

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Victim and District Attorney Statements
255-20-022

- (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.

Temporary effective 12/2/86 to 5/30/87

became Permanent effective 4/28/87



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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Panel Decision: 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 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 a the Full Board.]

Repealed

Permanent effective 5/19/88

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-030 Panel Decisions: Use of Guidelines/Unanimity Requirement

- (1) The panel shall consider the case in accordance with the guidelines in Division 35.
- (2) The decision of a panel of two (2) [or three] 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 to a different panel. 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. [The decision becomes the decision of the Board. The provisions of Section 255-30-025(2) and Rule 255-30-020 shall govern full Board cases.]

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 or three members must be unanimous. In the absence of a unanimous decision, each panel member shall forward his/her recommendation to the chairperson for reassignment. No matter so reassigned shall be decided by fewer than three affirmative votes. This may be done by another two-member panel reaching a unanimous decision in agreement with a member of the prior panel. The decision becomes the decision of the Board. The provisions of section 255-30-015(2) and rule 255-30-020 shall govern full Board cases.

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



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0032

Evidence

- (1) The presiding chairperson at a Board hearing shall explain the issues for decision, which, in the case of a prison term hearing, are those issues set forth in OAR 255-035-0013.
- (2) Evidence of a type that reasonably prudent persons would commonly rely upon in the conduct of their serious affairs shall be admissible in Board hearings, including:
 - (a) The information set forth in OAR 255-030-0035;
 - (b) Other relevant evidence concerning the inmate if reasonably available.
- (3) Reliable, probative and substantial evidence shall support Board orders. Substantial evidence is found when the record, viewed as a whole, would permit a reasonable person to make a particular finding.
- (4) The Board may exclude evidence if it is:
 - (a) unduly repetitious;
 - (b) not of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;
 - (c) provided by a person, other than a justice system official, without first hand knowledge of the circumstances of the crime;
 - (d) provided by a person, other than a justice system official, without first hand knowledge of the character of the inmate;
 - (e) addressing only guilt or innocence; or
 - (f) irrelevant or immaterial to the findings being made at that particular hearing.
- (5) The Board may receive evidence to which the inmate objects. If the presiding chairperson does not make rulings on its admissibility or exclusion during the hearing, the Board shall make findings on the record at the time a final order is issued.
- (6) Erroneous rulings on evidence shall not preclude Board action on the record unless shown to have substantially prejudiced the rights of the inmate.

Statutory Authority: ORS 144.050, 144.140
History: (11/1/89; 10/5/90; 1/13/92, 03/14/97, 06-09-00)

Permanent effective 06/09/2000

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0032

Evidence

- (1) The presiding chairperson at a Board hearing shall explain the issues for decision, which, in the case of a prison term hearing, are those issues set forth in OAR 255-35-013.
- (2) Evidence of a type that reasonably prudent persons would commonly rely upon in the conduct of their serious affairs shall be admissible in Board hearings, including:
 - (a) The information set forth in OAR 255-30-035;
 - (b) Other relevant evidence concerning the inmate if reasonably available.
- (3) Reliable, probative and substantial evidence shall support Board orders. Substantial evidence is found when the record, viewed as a whole, would permit a reasonable person to make a particular finding.
- (4) The Board may exclude evidence if it is:
 - (a) unduly repetitious;
 - (b) not of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;
 - (c) provided by a person, other than a justice system official, without first hand knowledge of the circumstances of the crime;
 - (d) provided by a person, other than a justice system official, without first hand knowledge of the character of the inmate;
 - (e) addressing only guilt or innocence; or
 - (f) irrelevant or immaterial to the findings being made at that particular hearing.
- (5) The Board may receive evidence to which the inmate objects. If the presiding chairperson does not make rulings on its admissibility or exclusion during the hearing, the Board shall make findings on the record at the time a final order is issued.
- (6) Erroneous rulings on evidence shall not preclude Board action on the record unless shown to have substantially prejudiced the rights of the inmate.

Statutory Authority: ORS 144.050, 144.140

History: (11/1/89; 10/5/90; 1/13/92, 03/14/97)

Permanent effective 3/14/97

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Evidence
255-30-032

- (1) The presiding chairperson at a Board hearing [before the Board of Parole and Post-Prison Supervision] shall explain the issues for decision [to be decided and shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the Board,] which, in the case of a prison term hearing, are those issues set forth in 255-35-013. [The Board may pursue lines of inquiry and follow up on potential evidence that may be favorable to the prisoner.]
- (2) Evidence of a type that reasonably prudent persons would commonly [relied] rely upon [by reasonably prudent persons] in the conduct of their serious affairs shall be admissible in Board hearings [before the Board], including:
 - (a) The information set forth in 255-30-035;
 - (b) Other relevant evidence concerning the prisoner [as may be] if reasonably available.
- (3) [Board orders shall be supported by] [r] Reliable, probative and substantial evidence shall support Board orders. Substantial evidence is found when the record, viewed as a whole, would permit a reasonable person to make a particular finding.
- (4) The Board may exclude [E] evidence [may be excluded] if it is:
 - (a) unduly repetitious;
 - (b) not of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;
 - (c) provided by a person, other than a justice system official, without first hand knowledge of the circumstances of the crime;
 - (d) provided by a person, other than a justice system official, without first hand knowledge of the character of the prisoner;
 - (e) addressing only guilt or innocence; or
 - (f) irrelevant or immaterial to the findings being made at the particular hearing.
- (5) The Board may receive [E] evidence [objected to by] to which the prisoner objects [may be received by the Board]. If the presiding chairperson does not make [R] rulings on its admissibility or exclusion[, if not made] during the hearing [by the presiding chairperson], the Board shall [be made] make findings on the record at [or before] the time a final order is issued.
- (6) Erroneous rulings on evidence shall not preclude Board action on the record unless shown to have substantially prejudiced the rights of the prisoner.

Statutory Authority: (ORS 144.050, 144.140)
History: (11/1/89; 10/5/90; 1/13/92)

Permanent effective 1/13/92

Evidence

255-30-032

(11/1/89; 10/5/90)

- (1) The presiding chairperson at a hearing before the Board of Parole and Post-Prison Supervision shall explain the issues to be decided and shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the Board, which, in the case of a prison term hearing, are those issues set forth in 255-35-013. The Board may pursue lines of inquiry and follow up on potential evidence that may be favorable to the prisoner.
- (2) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible in hearings before the Board, including:
 - (a) The information set forth in 255-30-035;
 - (b) Other relevant evidence concerning the prisoner as may be reasonably available.
- (3) Board orders shall be supported by reliable, probative and substantial evidence. Substantial evidence is found when the record, viewed as a whole, would permit a reasonable person to make a particular finding.
- (4) [Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. At a prison term hearing, evidence relating to guilt or innocence is irrelevant.]

Evidence may be excluded if it is:

 - (a) unduly repetitious;
 - (b) not of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;
 - (c) provided by a person, other than a justice system official, without firsthand knowledge of the circumstances of the crime;
 - (d) provided by a person, other than a justice system official, without firsthand knowledge of the character of the prisoner;
 - (e) addressing only guilt or innocence; or
 - (f) irrelevant or immaterial to the findings being made at the particular hearing.
- (5) Evidence objected to by the prisoner may be received by the Board. Rulings on its admissibility or exclusion, if not made during the hearing by the presiding chairperson, shall be made on the record at or before the time a final order is issued.
- (6) Erroneous rulings on evidence shall not preclude Board action on the record unless shown to have substantially prejudiced the rights of the prisoner.

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Evidence

255-30-032

- (1) The presiding chairperson at a hearing before the Board of Parole and Post-Prison Supervision shall explain the issues to be decided and shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the Board, which, in the case of a prison term hearing, are those issues set forth in 255-35-013. The Board may pursue lines of inquiry and follow up on potential evidence that may be favorable to the prisoner.
- (2) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible in hearings before the Board, including:
 - (a) The information set forth in 255-30-035;
 - (b) Other relevant evidence concerning the prisoner as may be reasonably available.
- (3) Board orders shall be supported by reliable, probative and substantial evidence. Substantial evidence is found when the record, viewed as a whole, would permit a reasonable person to make a particular finding.
- (4) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. At a prison term hearing, evidence relating to guilt or innocence is irrelevant.
- (5) Evidence objected to by the prisoner may be received by the Board. Rulings on its admissibility or exclusion, if not made during the hearing by the presiding chairperson, shall be made on the record at or before the time a final order is issued.
- (6) Erroneous rulings on evidence shall not preclude Board action on the record unless shown to have substantially prejudiced the rights of the prisoner.

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0035

Information the Board Shall Consider

- (1) The Board Review Packet shall contain:
 - (a) inmate's notice of rights and notice of administrative appeal;
 - (b) PSI, PAR, PSR or report of similar content;
 - (c) sentencing/judgement orders;
 - (d) facesheet;
 - (e) certification of time served credits;
 - (f) Board Action Forms;
 - (g) information pursuant to Ballot Measure 10;
 - (h) material submitted by the inmate or representative relating to the calculation of the prison term;
 - (i) current psychological/psychiatric evaluations;
 - (j) other relevant material selected at the Board's discretion.

- (2) The Board may consider additional information and recommendations from those with a special interest in the case. If considered, the Board Review Packet shall include the information. The Board must receive any information submitted pursuant to this section at least seven (7) days prior to the hearing. The Board may waive the seven day requirement.

Statutory Authority: ORS 144.185, 144.223

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 12/2/86, temporary;
4/28/87; 5/19/88; 11/1/89; 1/13/92)

Permanent effective 3/14/97

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Information the Board Shall Consider
255-30-035

- (1) The Board Review Packet shall contain:
- (a) inmate's notice of rights and notice of administrative appeal;
 - (b) PSI, PAR, PSR or report of similar content;
 - (c) sentencing/judgement orders;
 - (d) face sheet;
 - (e) certification of time served credits;
 - (f) Board Action Forms;
 - (g) information pursuant to Ballot Measure 10;
 - (h) material submitted by the inmate or representative relating to the calculation of the prison term;
 - (i) current psychological/psychiatric evaluations;
 - (j) other relevant material selected at the Board's discretion.
- (2) The Board may consider [A]additional information and recommendations from those with a special interest in the case [may be considered]. If considered, the Board Review Packet shall include [such] the information [shall be included in the Board Review Packet]. The Board must receive [A]ny information submitted pursuant to this section [must be received by the Board] at least seven (7) days prior to the hearing. The Board may waive the seven day requirement.

Statutory Authority: (ORS 144.185, 144.223)
History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85;
12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 1/13/92)

Permanent effective 1/13/92

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Information the Board Shall Consider at a Prison Term Hearing
255-30-035

- (1) The Board Review Packet shall contain:
 - (a) Inmate's Notice of Rights and Notice of Administrative Appeal;
 - (b) PSI, PAR, PSR or report of similar content;
 - (c) sentencing/judgement orders;
 - (d) face sheet;
 - (e) certification of time served credits;
 - (f) Board Action Forms;
 - (g) information pursuant to Ballot Measure 10;
 - (h) material submitted by the inmate or representative relating to the calculation of the prison term;
 - (i) current psychological/psychiatric evaluations;
 - (j) other material selected at the Board's discretion.
- (2) Additional information and recommendations from those with a special interest in the case may be considered. If considered, such information shall be included in the Board Review Packet. Any information submitted pursuant to this section must be received by the Board at least seven (7) days prior to the hearing.

Permanent effective 11/1/89

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Information the Board Shall Consider at a Prison Term Hearing
255-30-035

- (1) [The Board Shall consider all information in the Board Review Packet pursuant to OAR 255-15-030.]

The Board Review Packet shall contain:

- (a) inmate's notice of rights and notice of administrative appeal;
- (b) PSI, PAR, PSR;
- (c) sentencing/judgement orders;
- (d) face sheet;
- (e) certification of time served credits;
- (f) Board Action Forms;
- (g) information pursuant to Ballot Measure 10;
- (h) material submitted by the inmate or representative relating to the calculation of the prison term;
- (i) current psychological/psychiatric evaluations; and
- (j) other material selected at the Board's discretion.

- [(2) The Corrections Division will provide a Presentence Investigation Report or similar report to the Board within 90 days of admission to a correctional facility. 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) [(3)] Additional information and recommendations from those [others] with a special interest in the case may be considered. If considered, such information shall be included in the Board Review Packet. Any information submitted pursuant to this section must be received by the Board at least seven (7) days prior to the hearing.

- (3) [(4)] If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the response [rebuttal] must be received by the Board seven (7) [ten (10)] days prior to the hearing.

- (4) Information from the inmate or representative shall be submitted at least seven (7) 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.]

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 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.
- (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.

DIVISION 30

PRISON TERM HEARING PROCEDURE

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.

Temporary effective 12/2/86 to 3/30/87;
superceded by permanent filing 4/28/87

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

- 255-30-035 Information the Board Must Consider at a Prison Term Hearing: Parole Analysis Report/Other Material
- (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[M]). 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.
 - [(3) Transcripts forwarded by the sentencing judge shall be considered if available. The Board may continue a hearing to request the transcript if not received.]

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Amendment to 255-30-035

Amending OAR 255-30-035 to read as follows:

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 [Parole Analysis Report] 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 attached (Exhibit For I). Any transcripts forwarded by the sentencing judge shall be attached to the [Parole Analysis Report] 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.

(3) Transcripts forwarded by the sentencing judge shall be considered if available. The Board may continue a hearing to request the transcript if not received.

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

Permanent effective 5/19/82

DIVISION 30

PRISON TERM HEARING PROCEDURE

Amending and adopting on a temporary basis 255-30-035

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 [Parole Analysis Report] 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 attached (Exhibit F). Any transcripts forwarded by the sentencing judge shall be attached to the [Parole Analysis Report] 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.

(3) Transcripts forwarded by the sentencing judge shall be considered if available. The Board may continue a hearing to request the transcript if not received.

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

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

**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 Parole Analysis Report to the Board prior to the prisoner's

prison term hearing. This report shall be prepared according to the sectional outline attached (Exhibit F). Any transcripts forwarded by the sentencing judge shall be attached to the Parole Analysis Report.

(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.

(3) Transcripts forwarded by the sentencing judge shall be considered if available. The Board may continue a hearing to request the transcript if not received.

Stat. Auth.: ORS Ch. 144

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

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Permanent effective 2/1/79



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0040

Inmate's Access to Written Materials

- (1) The inmate shall have access to all the material in the Board Review Packet except that exempted by OAR 255-015-0010.
- (2) The inmate shall have access to all the victim and District Attorney's responses pursuant to OAR 255-030-0035 except that exempted by the Board pursuant to OAR 255-015-0010. The Board shall include the responses in the Board Review Packet or shall give the responses to the inmate as soon as they are available to the Board.
- (3) If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the Board must receive the response seven (7) days prior to the hearing. The Board shall notify the victim that the Board will include the response in the Board Review Packet sent to the inmate unless the victim requests confidentiality.
- (4) The inmate or representative shall submit any relevant information at least seven (7) days prior to the hearing.

Statutory Authority: ORS 144.130

History: (2/1/79; 5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92, 03/14/97, 06-09-00)

Permanent effective 06/09/2000

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0040

Inmate's Access to Written Materials

- (1) The inmate shall have access to all the material in the Board Review Packet except that exempted by OAR 255-15-010.
- (2) The inmate shall have access to all the victim and District Attorney's responses pursuant to OAR 255-30-035 except that exempted by the Board pursuant to OAR 255-15-010. The Board shall include the responses in the Board Review Packet or shall give the responses to the inmate as soon as they are available to the Board.
- (3) If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the Board must receive the response seven (7) days prior to the hearing. The Board shall notify the victim that the Board will include the response in the Board Review Packet sent to the inmate unless the victim requests confidentiality.
- (4) The inmate or representative shall submit any relevant information at least seven (7) days prior to the hearing.

Statutory Authority: ORS 144.130

History: (2/1/79; 5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92, 03/14/97)

03/14/97

Prison Term Hearing

Permanent effective 3/14/97

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prisoner's Access to Written Materials
255-30-040

- (1) The prisoner shall have access to all the material in the Board Review Packet except that exempted by OAR 255-15-010.
- (2) The prisoner shall have access to all the victim and District Attorney's responses [made by the victim and the District Attorney] pursuant to OAR 255-30-035 except that exempted by the Board pursuant to OAR 255-15-010. The Board shall include the responses [shall be included with] in the Board Review Packet or [they] shall [be given] give the responses to the inmate as soon as they are available to the Board.
- (3) If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the Board must receive the response [must be received by the Board] seven (7) days prior to the hearing. The Board shall notify the victim [shall be notified] that the Board will include the response [will be included] in the Board Review Packet sent to the inmate unless the victim requests confidentiality.
- (4) [Information from the] The inmate or representative shall [be submitted] submit any relevant information at least seven (7) days prior to the hearing.

Statutory Authority: (ORS 144.130)
History: (2/1/79; 5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89;
10/9/92)

Permanent effective 10/9/92

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prisoner's Access to the Written Materials Considered at
Hearings and Interviews
255-30-040

- (1) The prisoner shall have access to all the material in the Board Review Packet except that exempted by OAR 255-15-010.
- (2) The prisoner shall have access to all the responses made by the victim and the District Attorney pursuant to OAR 255-30-035 except that exempted by the Board pursuant to OAR 255-15-010. The responses shall be included with the Board Review Packet or they shall be given to the inmate as soon as they are available to the Board.
- (3) If the victim, his/her representative, or the District Attorney wishes to rebut any of the material in the Board Review Packet, the response must be received by the Board seven (7) days prior to the hearing. The victim shall be notified that the response will be included in the Board Review Packet sent to the inmate unless the victim requests confidentiality.
- (4) Information from the inmate or representative shall be submitted at least seven (7) days prior to the hearing.

Permanent effective 11/1/89

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Prisoner's Access to the Written Materials Considered at Hearings
and Interviews
255-30-040

- (1) The prisoner shall have access to all the material in the Board Review Packet except that exempted by OAR 255-15-010 [and 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.]

The prisoner shall have access to all the responses made by the victim and the District Attorney pursuant to OAR 255-30-035. The responses shall be included with the Board Review Packet or they shall be given to the inmate as soon as they are 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.]

Permanent effective 5/19/88

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 255-30-033.

Temporary effective 12/2/86 to 5/30/87; became

Permanent effective 4/28/87

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-040 Prisoner's Access to Written Materials Considered at Hearings and Interviews [Inmate Access to Written Materials Considered at Parole Board Hearings and Interviews]

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.

[Prior to any hearing affecting his/her parole status, any prisoner shall have access to the written material the Board considers with respect to his/her release on parole under Rule 255-30-035. Verbal communication which the Board considers shall be reduced to writing and subject to disclosure as written material.]

Permanent effective 5/31/85

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Inmate Access to Written Materials Considered at Parole Board Hearings and Interviews

255-30-040 Prior to any hearing affecting his/her parole status, any prisoner shall have access to the written material the Board considers with respect to his/her release on parole under rule 255-30-035. Verbal communication which the Board considers shall be reduced to writing and subject to disclosure as written material.

Stat. Auth.: ORS Ch. 144

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

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Permanent effective 2/1/79



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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 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 nonexempt material and the nonexempt material must be disclosed.]

Repealed
Permanent effective 5/19/88

- (1) Prisoners shall have access to written materials, including psychiatric and psychological reports prepared [solely] 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.

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

Exemptions From Disclosure

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

- (a) Information or records of the Corrections Division, to extent that disclosure thereof would interfere with the abilitation 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



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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 exceptions 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.)]

Repealed
Permanent effective 5/19/88

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-30-050 Record of Hearing: Content/Time to be Maintained

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 records.)

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

DIVISION 30

PRISON TERM HEARING PROCEDURE

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 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. & cf. 2-1-79



DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0055

Notice of Decision

- (1) Following a Board decision concerning the prison term of an inmate, the Board shall send written notice of the Board's final order to the inmate, District Attorney, sheriff or arresting agency, the Department of Corrections, and upon request, the victim, the sentencing judge and the trial counsel.
- (2) The Board's final order shall contain the following applicable findings:
 - (a) the prison term commencement date;
 - (b) the history/risk assessment score;
 - (c) the crime category with the subcategory rationale;
 - (d) the matrix range;
 - (e) when there are consecutive sentences, whether the range is unsummed and the reason for unsumming;
 - (f) when there is a variation from the range, the reason for the variation;
 - (g) aggravation;
 - (h) mitigation;
 - (i) the votes on minimum sentences;
 - (j) the prison term set;
 - (k) the votes of the Board members;
 - (l) the parole release date;
 - (m) when there are conditions of parole or post-prison supervision set, findings concerning the waiver of the residency condition, if any; and
 - (n) sentencing guidelines range, if applicable.

Statutory Authority: ORS 144.120, 144.260, 144.135

History: (2/1/79; 5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92; 10/29/93, 03/14/97)

Permanent effective 3/14/97

Notice of Decision
255-30-055

- (1) Following a Board decision concerning the prison term of an inmate, the Board shall send written notice of the Board's final order to the prisoner, [sentencing court], District Attorney, sheriff or arresting agency, the Department of Corrections, and upon request, the victim, the sentencing judge and the trial counsel.
- (2) The Board's final order shall contain the following applicable findings:
 - (a) the prison term commencement date;
 - (b) the history/risk assessment score;
 - (c) the crime category with the subcategory rationale;
 - (d) the matrix range;
 - (e) when there are consecutive sentences, whether the range is unsummed and the reason for unsumming;
 - (f) when there is a variation from the range, the reason for the variation;
 - (g) aggravation;
 - (h) mitigation;
 - (i) the votes on minimum sentences;
 - (j) the prison term set;
 - (k) the votes of the individual Board members;
 - (l) the parole release date;
 - (m) when there are conditions of parole or post-prison supervision set, findings concerning the waiver of the residency condition, if any; and
 - (n) sentencing guidelines range, if applicable.

Statutory Authority: ORS 144.120, 144.260, 144.135

History: (2/1/79; 5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92;
10/29/93)