

Black Binder

Board Rules

1990-1992

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220-90

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

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FEB 20 9 25 AM '90

BARBARA J. ...

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of TEMPORARY rule(s) adopted on February 12, 1990 (Date)

by the Board of Parole & Post-Prison Supervision (Department) (Division)

to be effective February 20, 1990 (Date) through August 1, 1990 (Date)

The within matter having come before the Board of Parole & Post-Prison Supervision (Department) (Division) after

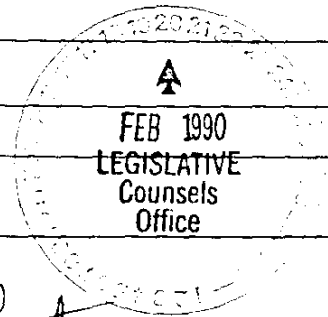
all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

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

Adopted: 255-30-024
(New Total Rules)

Amended: 255-30-023, Exhibit AI (255-35-013, 255-30-024)
(Existing Rules)

Suspended: _____
(Total Rules Only)



is Administrative Rules of the Board of Parole & Post-Prison Supervision (Department) (Division)

DATED this 20th day of February, 19 90

This Order amends TEMPORARY Order No.(s): _____

By: Wm L. Laatz (Authorized Signer)

NOTE: The Expiration date of this Order remains the same as the original Order.

Title: Chairman

Statutory Authority: ORS 144.120(1)(b), 144.780. or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: ORS 144.120(1)(b) allows a prisoner to waive his or her prison term hearing under certain conditions and pursuant to rule adopted by the Board. OAR 255-30-024 and 255-30-023 and Exhibit AI are adopted and amended to create a procedure and criteria for the waiver process.

Exhibit AI is also amended to clarify Board policy regarding Attempt Solicitation and Conspiracy as it was previously unclear.

Statement of Need Attached: Emergency Justification Attached: Do you intend to adopt this rule Permanently? YES NO

If so, have you filed Notice of Proposed Rulemaking for publication in the Oregon Bulletin? YES NO

For Further Information Contact: Cindy Burgess (Rule Coordinator) Phone: 378-2334

RECEIVED

FEB 20 9 25 AM '90

BEFORE THE BOARD OF PAROLE AND
POST-PRISON SUPERVISION

BARBARA C. ...
SECRETARY OF STATE

In the Matter of the Adoption)
and Amendment of Rules)
Related to Waiver of Prison)
Term Hearings and Related to)
Classification of Attempt,)
Solicitation & Conspiracy)
Crimes)

STATEMENT OF JUSTIFICATION
AND NEED

The Board of Parole and Post-Prison Supervision is amending and adopting the above referenced rules in order to provide for a prison term hearing waiver procedure and criteria and in order to clarify Board rule regarding the classification of attempt, solicitation and conspiracy crimes. These rules are needed immediately in order to set prison terms in a timely manner and to relieve prison crowding, which has reached levels such as to be a danger to the community. The clarifications of Attempt, Solicitation & Conspiracy Crimes are needed immediately because the past rule was not the intent of the Board and was unclear. These changes are needed immediately because otherwise inmates will be treated in an unequal way by the uneven application of the rule.

- (a) Statutory Authority : ORS 144.120(1)(b) &
ORS 144.780
- (c) Documents Relied Upon : ORS 144.120(1)(b),
Board of Parole Minutes,
January 18, 1990,
January 29, 1990,
February 5, 1990.

2/16/90
Date

Vern L. Faatz
Vern L. Faatz, Chairman

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:
None

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:
None

Organizational Impact: No additional staff will be needed. Some staff may have new duties or shorter timelines for copying Board Review Packets.

Parole Decisions will be made sooner in some cases, allowing prisoners to vacate beds for use by others.

Economic Impact:
None

Reference for Data and Methods Used Regarding the Above: 1989-90 Board of Parole & Post-Prison Supervision Budget

Prepared by: Cindy Burgess

Agency: Board of Parole & Post-Prison Supervision

Title: Rules Coordinator

Date: February 20, 1990

Prisoner Appearance at Board Hearing

255-30-023

(5/19/88; 11/1/89; 3/?/90)

- (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.]

Prison Term Hearing Waiver

255-30-024

(3/?/90)

- (1) Notwithstanding DAR 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 DAR 255-035-013 or 255-35-014 and will send the final Board order to the prisoner.

2/12/90

(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.

EXHIBIT A

CRIME SEVERITY RATINGS

<u>ORS</u>	<u>CRIME</u>	<u>FELONY CLASS</u>	<u>RATING</u>	<u>PERSON</u>
163.535	Abandonment of Child	C	2	<u>Yes</u>
166.085	Abuse of Corpse	C	3	<u>Yes</u>
475.993	Act By Registrant	C	1	<u>No</u>
163.095	Aggravated Murder	U	7,8	<u>Yes</u>
	<u>Conspiracy to Commit Aggravated Murder</u>	<u>A</u>	<u>6</u>	<u>Yes</u>
164.057	Aggravated Theft I	B	4	<u>No</u>
164.325	Arson I	A	6,5	<u>Yes</u>
164.315	Arson II	C	2	<u>Yes</u>
163.185	Assault I	A	6,5	<u>Yes</u>
163.175	Assault II	B	4	<u>Yes</u>
163.165	Assault III	C	3,2	<u>Yes</u>
161.405	Attempt - Receives the crime severity rating one [number] <u>rating</u> below the rating <u>for the lowest subcategory of</u> [for] the completed crime, for example, Attempted Arson I would be a [5] <u>4</u> if the completed crime could have been classified in subcategory I of Arson I as a 6.			
163.515	Bigamy	C	1	<u>Yes</u>
162.015	Bribe Giving	B	3	<u>No</u>
162.025	Bribe Receiving	B	3	<u>No</u>
162.275	Bribe Receiving by a Witness	C	2	<u>No</u>
162.265	Bribing a Witness	C	2	<u>No</u>
164.225	Burglary I	A	5,4,3	<u>Yes</u>
164.215	Burglary II	C	3,2,1	<u>No</u>
166.220	Carrying Weapon With Intent to Use	C	2	<u>Yes</u>
163.275	Coercion	C	4,3	<u>Yes</u>
167.017	Compelling Prostitution	B	4	<u>Yes</u>
164.377(2)(3)	Computer Crime/Proprietary Info	C	2,1	<u>No</u>
161.450	Conspiracy - Classified at same [level] <u>rating</u> as conspired crime (except murder or treason). [which are reduced to a felony (e.g., Conspiracy to Commit Burglary I is an A Felony.)]			
803.080	Counterfeit Vehicle Title	C	1	<u>No</u>
475.992(3)	Creation or Delivery of a Counterfeit Substance	A,B,C	5,4,3,1	<u>No</u>
163.005	Criminal Homicide	A	2	<u>Yes</u>
164.365	Criminal Mischief I	C	1	<u>No</u>
163.205	Criminal Mistreatment I	C	2	<u>Yes</u>
163.555	Criminal Nonsupport	C	1	<u>No</u>
165.022	Criminal Possession Forged Instrument I	C	1	<u>No</u>
165.032	Criminal Possession Forgery Device	C	1	<u>No</u>
164.140	Criminal Possession Rented/Leased Property	C	2,1	<u>No</u>

163.145	Criminally Negligent Homicide	C	4,3	<u>Yes</u>
163.257	Custodial Interference I	B	3	<u>Yes</u>
163.245	Custodial Interference II	C	1	<u>Yes</u>
163.673	Dealing in Depictions of Child's Sexual Conduct	B	4	<u>Yes</u>
475.995(1)	Delivery of Controlled Substance to Minor	A	4	<u>Yes</u>
475.995(2)	Delivery of Controlled Substance to Minor	B	3	<u>Yes</u>
475.995(5)	Delivery of Marijuana to Minor	A	4	<u>Yes</u>
475.999	Delivery of Controlled Substance to Student or Minor within 1000 feet of School	A	4	<u>Yes</u>
475.992(2)	Delivery of Marijuana for Payment	B	4,3,1	<u>No</u>
167.365	Dogfighting	C	1	<u>No</u>
811.175;	Driving While			
811.182	Suspended or Revoked	C	1	<u>No</u>
260.402; 260.555; 260.575; 260.615;				
260.645; 260.665(2); 260.655(3);	Election Law			
260.665(2)(d)-(f); 260.715	Offenses	C	1	<u>No</u>
164.885	Endangering Aircraft	C	2	<u>Yes</u>
162.165	Escape I	B	5	<u>Yes</u>
162.155	Escape II	C	2,1	<u>No</u>
162.205	Failure to Appear I	C	2	<u>No</u>
811.705	Failure to Perform Duties of Driver	C	3,2	<u>Yes</u>
822.605	False Swearing Relating to Regulation Vehicle Related Business	C	1	<u>No</u>
166.270	Felon in Possession of Firearm	C	2	<u>Yes</u>
506.991	Fishing Violation	C	1	<u>No</u>
532.140; 532.610;	Forest Products			
532.620; 532.990(2)	Offenses	U	1	<u>No</u>
803.230	Forge/Alter Vehicle Title Regis.	C	1	<u>No</u>
165.013	Forgery I	C	3,2,1	<u>No</u>
59.055; 59.115; 59.127;				
59.135; 59.145; 59.165;	Fraud			
59.730; 59.740; 59.750;	Involving Securities	B	4,3	<u>No</u>
59.760; 59.770; 59.780;				
59.790; 59.800;				
165.055(3b)	Fraudulent Use of Credit Card	C	1	<u>No</u>
811.185	Habitual Traffic Offender (OMVVC0)	C	1	<u>No</u>
166.420	Handgun/ Failure to Keep Register	C	2	<u>Yes</u>
162.325	Hindering Prosecution	C	1	<u>No</u>
163.525	Incest	C	3	<u>Yes</u>
166.165	Intimidation I	C	2	<u>Yes</u>
163.235	Kidnapping I	A	6	<u>Yes</u>
163.225	Kidnapping II	B	4	<u>Yes</u>
163.118	Manslaughter I	A	6	<u>Yes</u>
163.125	Manslaughter II	B	5,4,3	<u>Yes</u>
166.410	Manufacture, Importation, Sale, Gift, Loan or Possession of Firearms	B	4	<u>Yes</u>
471.440	Manufacture of Mash; Operating Distillery Without a License	C	1	<u>No</u>
475.992(1);	Manufacture or Delivery of Controlled			
475.993(2a)	Substance	A,B,C	5,4,3,1	<u>No</u>
166.384	Manufacture of Destructive Device	C	3	<u>Yes</u>
1/29/90	2			

Crime Severity Ratings

163.115	Murder	U	7,8	<u>Yes</u>
	<u>Conspiracy to Commit Murder</u>	A	6	<u>Yes</u>
165.065(3b)	Negotiating a Bad Check	C	2,1	<u>No</u>
166.450	Obliteration of ID Marks (Firearm)	C	1	<u>Yes</u>
815.410	Odometer Tampering			
815.430	or False Report	C	1	<u>No</u>
166.660	Paramilitary Activity	C	1	<u>Yes</u>
163.680	Paying for Viewing Child's Sexual Conduct	C	1	<u>Yes</u>
162.065	Perjury	C	2	<u>No</u>
496.992	Poaching	C	2	<u>No</u>
475.992(4)	Possession of a Controlled Substance	B,C	3,2,1	<u>No</u>
166.382	Possession of a Destructive Device	C	3	<u>Yes</u>
165.070	Possession of a Fraudulent Communications Device	C	2,1	<u>No</u>
167.137	Possession of Gambling Records	C	1	<u>No</u>
166.272	Possession of Machine Gun, Short-Barreled Rifle or Shotgun or Silencer	B	3	<u>Yes</u>
819.300	Possession of a Stolen Vehicle	C	1	<u>No</u>
166.275	Possession of Weapon By Inmate of Penal Institution	A	5	<u>Yes</u>
167.127	Promoting Gambling I	C	1	<u>No</u>
167.012	Promoting Prostitution	C	2	<u>Yes</u>
166.720	Racketeering	A	5,4	
163.375	Rape I	A	6,5	<u>Yes</u>
163.365	Rape II	B	4,3	<u>Yes</u>
163.355	Rape III	C	2	<u>Yes</u>
166.015	Riot	C	2	<u>Yes</u>
164.415	Robbery I	A	6,5	<u>Yes</u>
164.405	Robbery II	B	4	<u>Yes</u>
164.395	Robbery III	C	2	<u>Yes</u>
167.062(4)	Sadomasochistic Abuse or Sexual Conduct in Live Show	C	1	<u>Yes</u>
163.425	Sexual Abuse I	C	3	<u>Yes</u>
163.411	Sexual Penetration Foreign Obj. I	A	6,5	<u>Yes</u>
163.408	Sexual Penetration Foreign Obj. II	B	4	<u>Yes</u>
166.429	Shipping, Transporting, Receiving, Selling Furnishing Firearm in Furtherance of a Felony	B	4	<u>Yes</u>
163.405	Sodomy I	A	6,5	<u>Yes</u>
163.395	Sodomy II	B	4	<u>Yes</u>
163.385	Sodomy III	C	2	<u>Yes</u>
161.435	Solicitation - Classified [one level below crime solicited] <u>the same as attempt.</u>			
165.090	Sports Bribe Receiving	C	2	<u>No</u>
165.085	Sports Bribery	C	2	<u>No</u>
162.185	Supplying Contraband	C	4,3,2,1	<u>Yes</u>
167.212	Tampering With Drug Records	C	1	<u>No</u>
162.285	Tampering With a Witness	C	2	<u>Yes</u>
164.085	Theft by Deception	C	2,1	<u>No</u>
164.075	Theft By Extortion	B	4,3	<u>Yes</u>
164.095	Theft By Receiving	C	2	<u>No</u>
164.055	Theft I	C	2,1	<u>No</u>
164.125(4)(c)	Theft of Services	C	2,1	<u>No</u>
164.125(4)(d)	Theft of Services \$10,000+	B	4	<u>No</u>

164.065	Theft, Lost/Mislaidd Property	C	1	<u>No</u>
819.310	Trafficking in Stolen Vehicles	C	3	<u>No</u>
163.677	Transporting Child Pornography	B	4	<u>Yes</u>
166.005	Treason	U	7	
	<u>Conspiracy to Commit Treason</u>	<u>A</u>	<u>6</u>	
164.872(2)	Tree Spiking, Inconvenience, Annoyance or Alarm	C	2	<u>Yes</u>
164.872(3)	Tree Spiking, Serious Injury	B	4	<u>Yes</u>
164.135	Unauthorized Use of Vehicle	C	2,1	<u>No</u>
163.670	Using a Child in a Display of Sexually Explicit Conduct	A	6,5	<u>Yes</u>
247.121(2); 247.125;	Voter Registration			
247.340(4); 247.420(2)	Offenses	C	1	<u>No</u>
411.630; 411.640;				
411.675; 411.690;	Welfare/			
411.840	Food Stamp Fraud	C	2,1	<u>No</u>
127.585	Withdrawal of Life-Sustaining Procedures by Altering or Forging a Power of Attorney or by Concealing or Destroying a Revocation	A	3	<u>No</u>

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4.5-90

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

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APR 5 4 44 PM '90

BARBARA J. BROWN
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on Jan. 29 & April 2, 1990
(Date)

by the Board of Parole & Post-Prison Supervision
(Department) (Division)

to become effective April 5, 1990
(Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)

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

Notice of intended Action published in Secretary of State's Bulletin: NO YES Date Published: 10/1/89, 11/15/89

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

Adopted: 255-60-008, 60-012, 60-014, 60-013
(New Total Rules)

Amended: 255-30-013, 30-025, 255-35-020, 35-023, 35-025, 255-60-006,
255-60-030, 255-70-001, 70-015, 255-90-002
(Existing Rules)

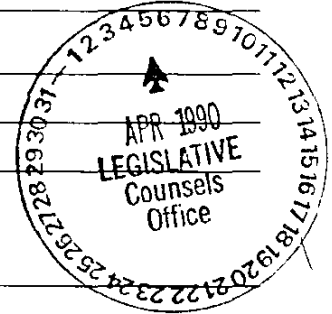
(Res Only)

as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 5th day of April, 19 90

By: Vern L. Foote
(Authorized Signer)

Title: Chairman



Statutory Authority: ORS Chapter 144 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Who May Appear at a Board Hearing, Minimum Sentences--Effect on Prison Term, Consecutive Short Sentences, Exit Interviews, Release Plans, Psychological Reports, Postponement Orders, Detainers, Exit Interview Board Review Packet, Conditions of Supervision, Establishing Conditions, Active Supervision & Restitution.

For Information Contact: Cindy Burgess Phone: 378-2334
(Rule Coordinator)

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BEFORE THE OREGON STATE

APR 5 4 44 PM '90

BOARD OF PAROLE & POST-PRISON SUPERVISION
SECRETARY OF STATE

In the Matter of the Adoption)	
and Amendment of Rules Governing)	
the Board of Parole & Post-Prison	)	STATEMENT OF
Supervision	)	NEED AND
	)	JUSTIFICATION

The Board of Parole and Post-Prison Supervision is adopting and amending the above referenced rules in order to comply with new legislation and to reorganize and clarify rules and to adopt a rule on who may attend board hearings.

- (a) Statutory Authority : ORS Chapter 144; Oregon Laws, Chapter 790 (1989); Oregon Laws, Chapter 46 (1989)
- (b) Need for Rules : Certain rules need clarification; others must be amended due to Oregon Laws, Chapters 790 & 46. The Department of Corrections requested a joint rule on who may attend Board hearings, ORS 144.123.
- (c) Documents Relied Upon : ORS 144.123; ORS Chapter 144, Board of Parole Minutes, Oct. 23 & 30, 1989; Oregon Laws, Chapters 790 & 46 (1989)

4-5-90

Date

Vern L. Faatz

Vern L. Faatz, Chairman

FISCAL ANALYSIS OF RULE PER ORS 183.335

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

<u>Effect on Expenditures (By Fund):</u>	<u>Current Biennium:</u>	<u>Future Biennium:</u>
413 & 713	None	None

Organizational Impact: Possible impacts on workload for review of release plans by a quorum of the Board.

Economic Impact: The requirement that parolees pay compensatory fines prior to discharge from parole could have an economic impact on the Department of Corrections and the Circuit Courts.

Reference for Data and Methods Used Regarding the Above:

1989090 Board of Parole & Post-Prison Supervision Budget

Prepared by: Cindy Burgess Agency: Board of Parole & Post-Prison Supervision
Title: Rules Coordinator Date: April 5, 1990

Notification of Hearing

255-30-013 (12/2/86, temporary; 4/28/87; 5/19/88; 4/5/90)

- (1) The prisoner shall be notified, in writing, of the hearing and its purpose and shall receive a copy of the Board Review Packet at least 14 days prior to the hearing.
- (2) If the prisoner did not receive 14 days notice, the hearing may be rescheduled, or the prisoner may waive the notice and the hearing shall be conducted.
- (3) The [Parole] Board shall attempt to notify the victim, if the victim requests [to be notified] notification and furnishes the Board a current address, and the District Attorney of the committing county at least thirty (30) days before all hearings by sending written notice to the current addresses of both parties.

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 (DAR 291-127-005 to -045); or
 - (b) an assigned inmate legal assistant, selected pursuant to Department of Corrections rules (DAR 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.

Consecutive Sentences: Board Bound by Court Order

255-35-020 (2/1/79; 5/19/82; 5/31/85; 5/19/88; 4/5/90)

The Board of Parole and Post-Prison Supervision does not have the authority to run a sentence concurrently or consecutively to an out of state jurisdiction, but is bound by the final judgement order issued by the Oregon courts.

Effect of [Judicial] Minimum Sentences on Prison Terms [Under ORS 144.110]; Consecutive Minimum Sentences
255-35-023 (5/31/85; 7/7/87, temporary; 12/14/87; 5/19/88; 4/5/90)

- (1) The Board shall not release a prisoner on parole until a judicially imposed minimum prison term has been served, except upon the affirmative vote of four members who have found that:
 - (a) the minimum term is not an appropriate penalty for the criminal offense; and
 - (b) the minimum term is not necessary to protect the public.
- (2) If at least four members of the Board have made the findings listed in subsection (1) of this section, The Board shall establish a prison term using the guideline range and the standard variations allowed.
- (3) When there are consecutive minimum sentences, and the Board finds that the combined minimums are not appropriate penalties for the criminal offenses involved, and are not necessary to protect community security, the Board, by four concurring votes, may override one or more of the judicially imposed minimums and set a prison term which is less than the sum of the minimum terms.
- (4) The Board shall set a parole release date in accordance with DAR 255-35-013 or 255-35-014, and shall state the facts and reasons for its actions.
- (5) Notwithstanding subsection (3) of this rule, when the Board overrides a ORS 163.115 murder minimum, the vote must be by unanimous vote of all members.
- (6) The Board may not override a ORS 161.610 gun minimum.
- (7) The Board may not override a ORS 163.105 aggravated murder minimum.

Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date

255-35-025 (2/1/79; 5/1/80, temporary; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 7/1/88; 4/5/90)

(1) When the Board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the maximum initial prison term [guideline range] shall be as follows [in order to allow a period of parole supervision]:

[(1)](a) Six months from the statutory good time date on a sentence of at least one year and less than three years;

[(2)](b) Nine months from the statutory good time date on a sentence of three years [up to] and less than six years.

[(3)](c) Twelve months from the statutory good time date on a sentence of six or more years.

(2) On short sentences which call for an earlier release date than the guideline range indicates, the following shall apply:

(a) using the correct crime category for the principal crime, apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b), or (c) will fall and which will provide a fully applicable range.

(b) for subsequent consecutive sentences use the base range unless the principal crime is one of those listed in OAR 255-35-021(4).

(c) For example:

	<u>Sent.</u>	<u>GTD</u>	<u>(1)(c)</u>	<u>H/R</u>	<u>CC</u>	<u>Range</u>	<u>Use</u>
<u>Robbery I</u>	<u>10 yr.</u>	<u>80 mo.</u>	<u>-12 mo.=68</u>	<u>2</u>	<u>6</u>	<u>90-130</u>	<u>44-56</u>
<u>Theft I</u>	<u>5 yr.</u>			<u>2</u>	<u>1</u>	<u>6 - 6</u>	<u>6-6</u>
							<u>50-62</u>

DIVISION 60

[PAROLE] RELEASE TO POST-PRISON SUPERVISION OR PAROLE
AND EXIT INTERVIEWS

Exit Interviews [; Parole Release Plan; and Psychiatric Records]
255-60-006 (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82;
5/31/85; 5/19/88; 11/1/89; 4/5/90)

- (1) At any time prior to ten days before a prisoner's scheduled [parole] release to post-prison supervision or parole [date], the Board on its own initiative or on the request of the Department of Corrections, may conduct an exit interview to review the prisoner's:
- (a) [parole] release plan;
 - (b) victim's statements, if any;
 - (c) PSR or similar report;
 - (d) psychiatric/psychological reports, if any; [and]
 - (e) conduct while in confinement; and
 - (f) any other information relevant to the prisoner's reintegration into the community that may be submitted by the prisoner, the prisoner's attorney, the Department of Corrections or any other person.

[Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.]

- (2) The procedures governing exit interviews shall be the same as the procedures for records, disclosure and notice outlined in Divisions 15 and 30.

Release Plans

255-60-008 (4/5/90)

- [[3]](1) The Board shall examine the prisoner's plans for residence, employment, or other situation in the community to determine whether the [parole] release plan is adequate. The plan may include, but is not limited to:
- (a) employment;
 - (b) school, or other situation (e.g., retirement income);
 - (c) verifiable residence;

- (d) a description of support services, program opportunities and treatment programs; [and]
 - (e) prescribed medication;[.]
 - (f) recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
 - (g) level of supervision consistent with the prisoner's risk assessment classification; and
 - (h) a restitution and compensatory fine payment schedule.
- [(4)](2) Parole release may be deferred up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification of a satisfactory plan from the Department of Corrections.
- [(5)](3) A prisoner requesting an out-of-state parole waives the ninety (90) day limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.
- [(6) The prisoner shall receive notice of the hearing results, including the facts and specific reasons for the decision and the individual votes of the Board members.]
- (4) Release to post-prison supervision may not be deferred. The following procedure shall apply:
- (a) If the release plan, which is submitted by the Department of Corrections at least 60 days prior to release, is deficient, it will be returned to the Department of Corrections with the Board's recommended modifications.
 - (b) The Department shall submit a revised plan to the Board not less than ten days prior to the prisoner's release.
 - (c) If the revised plan is not acceptable to the Board, the Board shall determine the provisions of the final plan prior to the prisoner's release.

Waiver of 90-Day Limitation; Deferral for Serious Misconduct
255-60-010 (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82;
 5/31/85, repealed)

Psychological or Psychiatric Reports

255-60-012 (4/5/90)

This rule does not apply to prisoner's whose only crimes are committed on or after November 1, 1989.

[(7)](1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.

(2) Pursuant to ORS 144.223, [T]he Board may order a psychiatric/psychological evaluation of any prisoner [report] anytime prior to release. [If the report [record] indicates that a psychiatric or psychological condition of severe emotional disturbance, such as to constitute a danger to the health or safety of the community, is present, the Board may consider deferring parole release until a specified future date.]

[(8)](3) If the psychiatric/psychological reports indicate that a psychiatric or psychological condition of severe emotional disturbance, such as to constitute a danger to the health or safety of the community, is present, the Board may defer parole release until a specified future date upon finding:

(a) the prisoner has a severe emotional disturbance;
and

(b) the condition renders the prisoner a danger to the health or safety of the community.

[(10)] The Board may not deny release on parole solely because of a prisoner's severe emotional disturbance.

[(9)](4) The majority of the Board may defer a scheduled parole release date up to two years. A panel may defer a scheduled parole release date up to 18 months.

[(8)](5) If the Board [evaluation does not] makes a finding that [of] a severe emotional disturbance such as to constitute a danger to the health or safety of the community does not exist, the Board shall affirm the parole release date and set parole conditions.

Postponement Order

255-60-013 (4/5/90)

Any order regarding the postponement of parole release shall be sent to the prisoner and shall set forth:

(1) the facts and specific reasons for the decision and the individual votes of the Board members;

(2) notice of the right to administrative appeal pursuant to the procedures of Division 80.

Detainers

255-60-014 (4/5/90)

[(11)](1) When a prisoner has a detainer from another jurisdiction, the prisoner will be released to the detainer [shall take precedence] and Oregon parole or post-prison supervision will begin upon the prisoner's release into the community from the holding jurisdiction.

[(12)](2) If a parolee is released by the Department of Corrections to a detainer from another jurisdiction and is recommitted to the Oregon Department of Corrections, the previous parole order shall be voided.

Instate Parole Release Interview Procedures

255-60-015 (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

Out-of-State Release Hearing Procedures

255-60-020 (2/1/79; 5/31/85; 5/19/88)

A prisoner in the custody of the Department of Corrections who is housed in an out-of-state facility may receive an exit interview if ordered by the Board in conformance with rule 255-60-006. All proceedings may be conducted by teleconference.

Parole Consideration for Prisoners in a Local Jail

255-60-025 (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

Exit Interview Board Review Packet

255-60-030 (5/19/88; 4/5/90)

The exit interview Board Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing, if any;
- (3) psychiatric and/or psychological evaluations (previous 6 months);
- (4) correspondence;
- (5) field parole analysis report, a pre-sentence investigation report or comparable report; [and]
- (6) court orders; [.]
- (7) misconduct reports; and
- (8) release plan.

DIVISION 70

CONDITIONS OF PAROLE

Conditions Not Limited by Exhibit J

255-70-001 (5/31/85; 11/3/86, temporary; 4/1/87; 4/15/88, temporary; 5/19/88;
7/1/88; 10/18/88; 4/5/90)

- (1) Conditions of parole may be imposed by the Board pursuant to OAR 255-70-015.
- (2) Conditions of post-prison supervision may be approved by the Board pursuant to OAR 253-11-001.
- (3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

Offender Return to County of Residency

255-70-003 (11/1/89)

- (1) Unless the Board waives the condition, the Board shall order as a condition of parole or post-prison supervision that an offender reside for the first six months in the county where the offender resided on the date of the last arrest for a crime resulting in imprisonment.
- (2) (a) The county of residency may be established by obtaining the last address of record at the time of the offense from:
 - (A) An Oregon driver's license, regardless of its validity;
 - (B) The Department of Revenue;
 - (C) The Department of State Police, Bureau of Criminal Identification; or
 - (D) The Department of Human Resources.
- (b) If the county of residency cannot be established, the offender shall be considered to have resided in the county where the crime was committed.
- (3) Upon motion of the Board, an inmate, a victim, or a district attorney, the Board may waive the residency requirement after making a finding that one of the following conditions has been met:
 - (a) the inmate provides proof of a job with no set ending date in a county other than the established county of residence;
 - (b) the inmate poses a significant danger to the victim;
 - (c) the victim or victim's family poses a significant danger to the inmate residing in the county of residence;

- (d) the inmate has a spouse or biological or adoptive family residing in other than the county of residence who will be materially significant in aiding in the rehabilitation of the offender and in the success of the parole or post-prison supervision period;
- (e) the inmate is required as a condition of parole or post-prison supervision to participate in a treatment program which is not available in or located in the county of residence;
- (f) the inmate desires to be released to another state or there is a detainer from another state;
- (g) other good cause.

Parolee Placement in Community Corrections Centers: Standards; Limitations
255-70-005 (2/1/79; 5/31/85, repealed)

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255-70-010 (2/1/79; 5/31/85; 11/3/86, temporary; 4/1/87; 5/19/88, repealed)

Establishing Conditions
255-70-015 (5/19/88; 4/5/90)

- (1) The Board may order an exit interview prior to the prisoner's [parole] release date to review the prisoner's case and set or approve [parole] conditions. See Division 60 for exit interview procedures.
- (2) If the Board decides to waive an exit interview, it shall specify the condition(s) of parole to be added to the parole order at the prison term hearing.
- (3) If the Board decides to waive an exit interview, it shall specify, in an order given to the offender upon release from incarceration, the condition(s) of post-prison supervision. The decision may be made by administrative file pass.
- [(3)](4) Once the conditions [of parole] have been established, the conditions may be altered according to the following procedures:
 - (a) by administrative file pass, if the alteration is before the prisoner's release on parole or post-prison supervision or if a condition is deleted after release; and
 - (b) at a cite to show cause hearing, if the alteration is after [parole] release and the offender does not consent to the addition of conditions pursuant to Exhibit P.
- [(4)](5) A cite to show cause hearing under section (1) of this rule shall be conducted pursuant to the rules governing parole revocation hearings in Division 75.

[(5)](6) When a parole officer or supervisory authority would like the Board to add conditions to the [parole] order, before the prisoner is released on parole or post-prison supervision, the request must be submitted in writing or by teletype to the Board at least two weeks prior to the release date.

(7) The conditions of parole or post-prison supervision may be appealed pursuant to the procedures of Division 80.

Establishing the Period of Parole Supervision; Effect of Restitution
Obligation; Effect of Ballot Measure 10.

255-90-002 (5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85;
5/19/88; 7/1/88; 110/18/88; 12/5/89; 4/5/90)

- (1) The Board shall establish a period of active supervised parole as shown in Exhibit I. The Board may order an extended supervision period if it finds that such an extension is appropriate.
- (2) Notwithstanding subsection (1) of this rule, active supervision [, as shown in the Exhibit I, shall extend until the maximum expiration of the prison sentence if restitution remains unpaid] shall continue until restitution or compensatory fines are paid.
- (4) Discharge for inmates who committed crimes on or after December 4, 1986 shall be governed by Division 92 of the Board's rules.

P.O.D.
rule Printing

6-1990

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**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 1 — BOARD OF PAROLE**

DIVISION 1

RULEMAKING PROCEDURE

Notice of Rulemaking: Time and Manner

255-01-005 (1) Prior to the permanent adoption, amendment, or repeal of any rule, the chairperson of the Board shall give notice of the proposed action at least fifteen (15) days prior to the effective date:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360;

(b) By mailing a copy of the notice to persons on the Board mailing list established pursuant to ORS 183.335(7); and

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

(A) Oregon State Bar Bulletin;

(B) United Press International and Associated Press;

(C) Release Services, Field Services, and Regional Offices, State of Oregon Department of Corrections;

(D) Oregon District Attorneys Association;

(E) Oregon Criminal Defense Attorneys Association;

(F) All County Public Defender Offices;

(G) All County Law Libraries;

(H) Attorney General's Office;

(I) State Public Defender;

(J) Supreme Court Law Library;

(K) University of Oregon Law School;

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

(M) College of Law, Willamette University;

(N) American Civil Liberties Union;

(O) The Oregonian, Portland, Oregon;

(P) Pendleton Eastern Oregonian, Pendleton, Oregon;

(Q) The Oregon Statesman-Journal, Salem, Oregon;

(R) Medford Mail Tribune;

(S) The Register Guard, Eugene, Oregon; and

(T) Others upon formal written request of the Board.

(2) When the Board has filed a temporary rule with the Secretary of State's Office, the Board shall mail a copy of the certificate and order and a copy of the temporary rule to the persons on the Board's mailing list, and to those listed in subsection (1)(c) of this section.

(3) Notwithstanding subsection (2) of this section, when the Board has filed a temporary rule with the Secretary of State's Office, newspapers and media services shall only receive a copy of the certificate and order.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Rulemaking Procedure

255-01-010 (1) All new and revised rules will be adopted in accordance with the provisions of ORS 183.310 to 183.550, the Model Rules of Procedure adopted by the Oregon Attorney General and ORS 192.610 to 192.690. Only those sections of the

Model Rules which relate to rulemaking will be utilized by the Board.

(2) The Board shall hold a business meeting, pursuant to Division 20, when a change in the rules is being considered and a notice of intent has been filed.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

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

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

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

Obtaining Copies of Board Rules

255-01-016 (1) A copy of the Board's rules shall be provided free of charge to the inmate libraries at each of the Department of Corrections institutions and to any state agency or legislative entity that requests a copy.

(2) Others who desire copies of Board's rules shall make their requests in writing. Ten (.10) cents per page will be levied to cover the costs for individual rules. Payment must be received in advance.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 2-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Submitting Draft of Rule to Legislative Counsel

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

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 18-1988, f. & cert. ef. 12-6-88

Postponing Intended Action

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

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

Conduct of Hearing

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

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

Presiding Officer's Report

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

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

Action of the Board

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

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

Notice of Board Action: Certification to Secretary of State; Submitting Copy to Legislative Counsel

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 5 — BOARD OF PAROLE**

DIVISION 5

DEFINITIONS

Definitions

255-05-005 (1) "Active Community Supervision": An uninterrupted period of a at least six months supervision in the community, requiring regular contact and monitoring by the supervising officer to assure that the conditions of parole or post-prison supervision are being met, that the supervisee has committed no new crimes and to assure repayment of restitution, if required.

(2) "Active Supervision": Supervision requiring regular contact and monitoring by the supervising officer to assure continued compliance with the conditions of parole. (Division 92) "Active Supervision" shall not include:

(a) The period of confinement in local, state or federal correctional facilities during the parole;

(b) The period of time between the suspension of parole and the date parole is continued;

(c) Inactive parole; (Division 92)

(d) Involuntary commitment to a state or federal psychiatric facility.

(3) "Aggravation": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflects on the character of the offender pursuant to (Exhibit E-1).

(4) "Base Range": The range for each crime category reflected in (Exhibit C) under the "excellent" column.

(5) "Board": Board of Parole and Post-Prison Supervision.

(6) "Board Review Packet": The information the Board shall consider at the inmate's hearing. The contents of the packet shall be listed in each of the Divisions which establishes a hearing.

(7)(a) "Correctional Facility": any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order.

(b) "Correctional Facility": includes a juvenile facility if the juvenile is confined for a felony charge or conviction and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect.

(8) "Crime Severity Rating": A classification from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to (Exhibit A).

(9) "Crime Spree": A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.

(10) "Date of Return": The date the prisoner is physically returned or available for return to the custody of the Department of Corrections following a hold in another in-state or out-of-state jurisdiction.

(11) "De novo Hearing": A new initial prison term hearing required when there are additional consecutive sentences for crimes which occurred prior to the first prison term hearing.

(12) "Exemplary Behavior": Reasonable compliance with parole conditions and felony crime free during parole supervision.

(13) "Extreme Cruelty": The facts of the crime demonstrate:

(a) The depraved, evil, mind of a person who has no regard for human life and suffering; or

(b) Brutality; or

(c) Intentional infliction of pain for the purpose of revenge, extortion, persuasion or to satisfy some other evil propensity.

(14) "Future Disposition Hearing": The hearing at which the sanction for a parole violation is established.

(15) "Gang Member": A person who associates with a group which identified itself through the use of a name, unique appearance, or language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system that results in criminal activity.

(16) "Gang-Related Activity": Crime committed:

(a) With other known gang members; or

(b) Against other known members; or

(c) Against a person who is not a gang member; or

(d) In order to further the purposes of the gang or impress other gang members.

(17) "History/risk Score": A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to (Exhibit B).

(18) "Inactive Parole": includes:

(a) General parole conditions;

(b) No supervision by a parole officer;

(c) No parole fees; and

(d) Name and status maintained on the LEDS and EPR computer systems.

(19) "In Camera Hearing": The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.

(20) "Initial Parole Release Date": The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).

(21) "Inoperative Time": Time spent outside a state correctional facility without the authorization of the Department of Corrections.

(22) "Less than the Sum of the Terms": An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.

(23) "Matrix Ranges": Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.

(24) "The Matrix": A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to (Exhibit C).

(25) "Mitigation": The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant (Exhibit E-2).

(26) "Parole": A conditional release from a state correctional facility into the community.

(27) "Particularly Violent or Otherwise Dangerous Criminal Conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 10 — BOARD OF PAROLE

DIVISION 10

ORGANIZATION

Membership

255-10-005 The Board of Parole and Post-Prison Supervision shall consist of those members appointed by the Governor, pursuant to ORS 144.005.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 3-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

Chairperson; Vice-Chairperson; Selection; Term

255-10-010 [2PB 1-1979, f. & ef. 2-1-79; 2PB 17-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 3-1985, f. & ef. 5-31-85; Repealed by PAR 6-1988, f. & cert. ef. 5-19-88]

Chairperson; Vice-Chairperson; Powers and Duties

255-10-015 (1) The chairperson shall have the powers and duties established by law and such powers and duties, in addition to those established by law, necessary for the performance of the office, as determined by the Governor. Such powers and duties shall include, but are not limited to:

(a) Assigning Board members to panels and designating the presiding members in order to conduct hearings and reviews;

(b) Serving as the presiding member when on a panel or a Full Board;

(c) Apportioning matters to the panels and full Board for decision;

(d) Reassigning matters to different panels when required by rule, law, or procedure;

(e) Scheduling business meetings and establishing the agenda; and

(f) Informing the sentencing judge, district attorney, sheriff, or arresting agency of the scheduled release of each prisoner.

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

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 17-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; PAR 6-1988, f. & cert. ef. 5-19-88

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

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

255-10-020 [2PB 1-1979, f. & ef. 2-1-79; Repealed by 6-1988, f. & cert. ef. 5-19-88]

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 12 — BOARD OF PAROLE**

DIVISION 12

PERSONAL SERVICE CONTRACTS

When Personal Service Contracts Are Used

255-12-001 The Board of Parole and Post-Prison Supervision may contract for services by use of personal service contracts or interagency or intergovernmental service agreements as authorized by the Board's legislatively approved budget when:

- (1) Needed specialized skills, knowledge and resources are not available within the Board and its staff; or
- (2) The work cannot be done in a reasonable time with the Board's staff; or
- (3) An independent and impartial evaluation of a situation is required; or
- (4) It is substantially less costly and more efficient, in the long run, to contract for the work and union contracts would not be impaired.

Stat. Auth.: ORS Ch. 144 & 291
Hist.: PAR 2-1989, f. & cert. ef. 5-23-89; PAR 4-1989, f. & cert. ef. 11-1-89

Limitations

255-12-005 (1) Personal service contracts shall be drafted and processed in accordance with Executive Department rules, OAR 122-10-005 through 122-31-005, ORS 291.021 and any other applicable laws.

- (2) Personal service contracts shall not exceed one fiscal year in duration.
- (3) Personal service contracts shall not exceed the funding provided by the legislatively approved budget.

Stat. Auth.: ORS Ch. 144 & 291
Hist.: PAR 2-1989, f. & cert. ef. 5-23-89

Approval and Filing

255-12-010 (1) The Board may enter into a personal service contract for an amount up to \$5000 per contract per fiscal year without Executive Department approval and in an amount up to \$25,000 per contract per fiscal year without Department of Justice approval.

- (2) Personal service contracts, amendments or extensions of contracts exceeding the approved or delegated dollar authority shall be submitted in triplicate originals for Executive Department approval.
- (3) Interagency and intergovernmental service agreements do not require Executive Department approval or review for legal sufficiency by the Department of Justice.
- (4) All personal service contracts and interagency and intergovernmental service agreements must be filed with the Executive Department.
- (5) Any personal service contract or agreement may be submitted for review by the Department of Justice.

Stat. Auth.: ORS Ch. 144 & 291
Hist.: PAR 2-1989, f. & cert. ef. 5-23-89

Statement of Work

255-12-015 When the need for a personal service contract is established, the Board, or its designee, will draft a Statement of Work which:

- (1) Describes specific services that are to be delivered; and
- (2) The conditions or circumstances under which services will be delivered, accepted and expensed.

Stat. Auth.: ORS Ch. 144 & 291
Hist.: PAR 2-1989, f. & cert. ef. 5-23-89

Procurement

255-12-020 (1) The Board, or its designee, will request price quotations, proposals, resumes, or vitae from at least three prospective contractors, who are qualified and interested, selected from a list maintained by the Board of Parole or Executive Department, by mailing:

- (a) A Statement of Work or a proposed contract; and

(b) A Request for Proposals.

(2) If the Chairperson is satisfied that only a single source is available or practical, the Chairperson may waive section (1) of this rule and shall submit the appropriate justification to the Executive Department.

Stat. Auth.: ORS Ch. 144 & 291
Hist.: PAR 2-1989, f. & cert. ef. 5-23-89

Contractor Selection

255-12-025 (1) The Chairperson will screen the contractors and present those chosen for further consideration to the Board for a decision.

(2) Contractors will be chosen based on the following criteria:

- (a) Submission of a proposal, resume or vitae within 90 days of mailing the Request for Proposals;
- (b) Contractor agrees to the terms and conditions of the Statement of Work;
- (c) Contractor has adequate prior experience and education or special expertise in the type of service requested;
- (d) Contractor provides three positive business references or the contractor has a past history of good performance for the Board.

Stat. Auth.: ORS Ch. 144 & 291
Hist.: PAR 2-1989, f. & cert. ef. 5-23-89

Contract Termination

255-12-030 The Board may terminate a personal service contract upon 30 days' written notice delivered by certified mail or in person when:

- (1) Funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of service; or
- (2) Federal or state regulations modified or interpreted in such a way that the services are no longer allowable or appropriate for purchase under the contract; or
- (3) Any license or certificate required of the contractor by law or regulation is for any reason

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 15 — BOARD OF PAROLE**

DIVISION 15

**REQUEST FOR PAROLE BOARD
RECORDS OR FILES**

Parole Board Records

255-15-002 The Board will maintain a separate file on each person under its jurisdiction which will contain the materials obtained pursuant to ORS 144.185.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88

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

Oral Record of Hearing

255-15-003 A tape of the oral proceedings of any hearing shall be kept by the Board for at least two years.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88

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

Procedures for Obtaining Information From Board Records

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

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

(3) The chairperson or designee will review the record to determine what may be disclosed in accordance with OAR 255-15-010, and within ten (10) working days will advise the person or agency whether the requested information is available and may be disclosed.

Stat. Auth: ORS Ch. 144
Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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Criteria for Disclosure or Denial of Disclosure of File or Record

255-15-010 (1) The records of the Board shall be disclosed to any person or agency unless disclosure would:

- (a) Interfere with the rehabilitation of the person concerned; or
- (b) Substantially interfere with the carrying out of the function of the Board or the Department of Corrections; or

(c) Would endanger the inmate or other persons; or

(d) Compromise the privacy of the inmate or another person; or

(e) Interfere with frank advisory communications between officials or employees of public agencies; or

(f) Compromise an ongoing criminal investigation; or

(g) Violate ORS 137.077 or 137.530 (relating to the PSI); and

(h) The public interest in confidentiality clearly outweighs the public interest in disclosure.

(2) When disclosure of information is denied to a prisoner a written statement of the reasons for denial must be entered into the record for review by the Attorney General and the courts only.

(3) 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.

Stat. Auth: ORS Ch. 144
Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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Fees for Board Records

255-15-015 (1) The fees for documents shall be as follows:

(a) If the request is for specific, identified, disclosable information from the Board Review Packet, the cost of the duplication will be fifty (50) cents per page; or

(b) If the request requires a review of the Parole Board Record, a determination of availability will be made by the reviewer. The cost will be fifty (50) cents a page plus a cost for staff time.

(2) The fee for the duplication of oral records shall be \$5.00 per tape.

(3) All computed costs including staff time for review, reproduction, materials, and first class postage may be waived by the chairperson of the Board.

(4) Unless the chairperson decides that the person or agency may be billed at a later date, no reproduction of material is authorized until payment has been received in advance.

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

Stat. Auth: ORS CH. 144
Hist.: 1PB 4-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88

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

EXHIBIT N
(255-15-004)

INMATES' RIGHTS
AND
BOARD OF PAROLE PROCEDURES

1. Law that Applies

You are scheduled for a hearing before the Oregon State Board of Parole. Based on the hearing results, the Board will issue an order which will affect your release date from the institution. You should note that parole may be denied. The hearing will be conducted as provided in Chapter 183 and Chapter 144 of the Oregon Revised Statutes (as limited by ORS 183.315) and as further provided in the administrative rules of the Oregon Board of Parole, OAR Chapter 255. These statutes and rules are available through the institution's legal library.

2. Right to An Attorney

Parties are not ordinarily and customarily represented by attorneys. The Board of Parole will not be represented by an attorney at the hearing, and you may represent yourself at the hearing. If you choose to represent yourself, but determine in the course of the hearing that an attorney is necessary, you may not request a recess. The Board will not appoint or pay an attorney for you. You may be accompanied by one person of your choice to the hearing and that person can be an attorney.

3. Presiding Officer

Either the Full Board or a Panel of the Board (two members) will hear your case. One of the members will serve as the presiding officer and will rule on all matters that arise at the hearing. The Board will render the final determination.

4. Hearing Procedure

A Board hearing is less formal than a court appearance. The Board will review the documents in your parole packet, including the Presentence Report or a report of similar content; any additional information provided by police, counsel, the victim, or the district attorney, and any recent psychological/psychiatric evaluations. You have the right to examine these documents before the hearing, subject to the exceptions listed in OAR 255-35-045. You have the right to present additional, relevant information and you have the right to rebut information you believe is inaccurate. You do not have the right to call witnesses or to cross-examine witnesses who have provided information to the Board. In general, information which you wish the Board to consider should be provided in writing prior to the hearing. You, or your representative, may make an oral statement

to the Board.

5. Notice and Waiver

You should receive your parole packet and a notice of your hearing at least 14 days before your hearing date. You should bring your copy of the parole packet to your hearing. If you do not receive these materials 14 days prior to your hearing, you may waive the notice period.

6. Continuances

There are normally no continuances granted at the end of a hearing. You should be prepared to proceed at the time of the hearing. However, if you can show that the record should remain open for additional evidence, the presiding Board member may consider that request.

7. Exceptions to Proposed Order

After the hearing you will be sent an order reflecting the Board's decision in your case. This order will be captioned "Board Action Form". This amounts to the final order of the Board of Parole. If you disagree with the order, you may either seek administrative review or appeal directly to the Oregon Court of Appeals. Ordinarily, there will not be an opportunity after the Board issues its order for you to appear before it to object to the order or present additional arguments.

8. Record

A record will be made of the entire hearing to preserve the testimony and other evidence for appeal. This will be done by tape recorder. Ordinarily the record will not be transcribed unless you appeal to the Court of Appeals. If you appeal, you will not have to pay for the cost of transcribing the record, unless the petition is frivolous. If you do not appeal, a copy of the record will be made available to you upon payment of the cost of making it. The Board only maintains taped records for two years. After two years the record is deleted.

9. Appeals and Administrative Reviews

If you wish to appeal the final order, you must file a Petition for Review with the Oregon Court of Appeals within 60 days after the final order is served upon you. If you cannot afford a lawyer to help you with an appeal, you may have the right to appointed counsel. You should contact the Public Defender's Office about having an attorney appointed for you. You also have the right to an administrative review. The request for review must be made within 45 days after the final action of the Board. The administrative review procedure is allowed generally to correct Board error or deal with new information that was not available to the Board or the inmate at the time of the initial prison term hearing.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 20 — BOARD OF PAROLE**

DIVISION 20

BUSINESS MEETINGS

Scheduling

255-20-005 Business meetings shall be held as scheduled by the chairperson or upon the request of at least three (3) members of the Board.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Quorum

255-20-010 A business meeting requires the presence of at least three (3) voting members of the Board, one of whom shall be the chairperson, vice-chairperson's designee.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Matters for Consideration; Majority Vote

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

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 5-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Procedure

255-20-020 A business meeting under this Division is a public meeting as defined in ORS 192.610 to 192.690. Adequate public notice, public access, and public minutes are required.

Stat. Auth: ORS Ch. 144

Hist.: PAR 6-1988, f. & cert. ef. 5-19-88

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 25 — BOARD OF PAROLE**

DIVISION 25

ADJUSTED COMMITMENT DATE

Date Prison Term Starts to Run

255-25-005 The commencement date for the prison term is the date on which the prisoner is delivered to custody of the Department of Corrections for the purpose of serving the sentence.

(2) In the case of additional consecutive sentences, the existing parole release date shall be recinded and shall become the commencement date for the new sentence.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 6-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Credit For Time Served

255-25-010 (1) Time served credit shall be granted towards the prison term for the following time periods;

(a) The actual, non-overlapping, certified time served in the County Jail after arrest until the prison term begins; or

(b) The actual, non-overlapping, certified time served in the County Jail as a condition of probation.

(2) When credit is granted towards the prison term under section (1) of this rule, the time served credits shall be deducted from the parole release date after a prison term has been established.

(3) When credit is granted towards the prison term on a sentence consecutive to one being served, the adjusted commitment date shall be the prior parole release date. The time served credits shall be deducted from the newly established parole release date after a prison term has been established on the new consecutive sentence.

(4) If additional time served credits are received after the prison term has been established, the Board may administratively correct the parole release date. The person so affected shall receive notice in writing of the Board's action.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 6-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 11-1988(Temp), f. & cert. ef. 7-20-88 (and corrected 8-5-88); PAR 18-1988, f. & cert. ef. 12-6-88

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Calculation of Adjusted Commitment Date

255-25-015 [2PB 6-1985, f. & ef. 5-31-85;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

Method of Certification/Disagreement with Time Served Calculation

255-25-020 [2PB 6-1985, f. & ef. 5-31-85;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

Adjustment of Adjusted Commitment Date

255-25-025 [2PB 6-1985, f. & ef. 5-31-85;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

Effect of Inoperative Time on Prison Terms

255-25-030 Inoperative time shall not count towards the completion of the prison term. In resetting the parole release date, the inoperative time shall be added to the prison term. The Board shall notify the inmate of its action.

Stat. Auth: ORS Ch. 144

Hist.: PAR 6-1988, f. & cert. ef. 5-19-88

Adjusted Commitment Date for Parole Terms

255-25-035 The adjusted commitment date for parole violators with new convictions or new commitments shall be calculated as outlined in OAR 255-75-078.

Stat. Auth: ORS Ch. 144

Hist.: PAR 18-1988, f. & cert. ef. 12-6-88

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

DIVISION 30

**PRISON TERM HEARING
PROCEDURE**

Policy

255-30-002 [2PB 3-1981(Temp), f. & ef. 7-20-81;
Repealed by 2PB 7-1985,
f. & ef. 5-31-85]

Definitions

255-30-005 [2PB 1-1979, f. & ef. 2-1-79;
2PB 7-1985, f. & ef. 5-31-85;
2PB 4-1986(Temp), f. & ef. 12-2-86;
PAR 3-1987, f. & ef. 4-28-87;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

Scheduling Prison Term Hearings

255-30-010 (1) The Board shall conduct a hearing to establish a prison term for each new prisoner whose crime was committed prior to November 1, 1989 within:

(a) Six (6) months of admission to a Department of Corrections facility for those sentenced to five years or less;

(b) Eight (8) months of admission to a Department of Corrections facility for those sentenced to more than five years but less than fifteen years; or

(c) Twelve (12) months of admission to a Department of Corrections facility for those sentenced to life or fifteen (15) years or more.

(2) A prison term hearing for any additional sentence received while in custody of a Department of Corrections facility, shall be scheduled pursuant to section (1) of this rule.

(3) For those prison terms hearings which must be conducted within six (6) months, the Board may defer setting a prison term for ninety days to obtain additional information.

(4) Prison terms may be established after hearing or administratively pursuant to OAR 255-30-023.

Stat. Auth.: ORS Ch. 144
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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

Scheduling and Hearing Procedure for Aggravated Murder

255-30-012 [2PB 10-1981(Temp),
f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
Repealed by 2PB 7-1985,
f. & ef. 5-31-85]

Notification of Hearing

255-30-013 (1) The prisoner shall be notified, in writing, of the hearing and its purpose and shall

receive a copy of the Board Review Packet at least fourteen (14) days prior to the hearing.

(2) If the prisoner did not receive 14 days notice, the hearing may be rescheduled, or the prisoner may waive the notice and the hearing shall be conducted.

(3) The Board shall attempt to notify the victim, if the victim requests notification and furnishes the Board a current address, and the District Attorney of the committing county at least thirty (30) days before all hearings by sending written notice to the current addresses of both parties.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 4-1989, f. & cert. ef. 11-1-89

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When a Full Board is Required; Procedures for Full Board Decision

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

(2) The following hearings may be conducted by a quorum of the Board with final decision by a quorum of the Board:

(a) Cases where the prisoner was sentenced under ORS 161.725 and 161.735 as a dangerous offender.

(b) Cases where an extension of more than two years in the prison term is recommended for misconduct.

(c) Whenever a panel lacks a quorum and is unable to come to a unanimous decision to set a prisoner's prison term and a second panel is assigned to hear the case and no quorum occurs in the second panel.

(3) The following hearings may be conducted by a quorum of the Board with final decision by at least four members of the Board:

(a) Cases where the minimum sentence imposed by a judge pursuant to ORS 144.110 exceeds the matrix range and the variations permitted a panel.

(b) Whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote.

(c) Whenever the panel recommends denying parole.

(d) Whenever a panel recommends a decision to set the prison term below a judicially set minimum sentence; (A panel may uphold a judicial minimum).

(e) Whenever a panel recommends unsumming a unified range.

(4) The following hearings may be conducted by a quorum of the Board with review of the final decision by the full Board:

(a) Cases involving a prisoner sentenced to death for aggravated murder or life imprisonment for murder, or for aggravated murder;

(b) Cases where the prisoner was convicted of a crime involving the death of a victim, whether or

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

prisoner may make a statement not to exceed three minutes.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88

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Panel Decisions: Use of Guidelines; Unanimity Requirement

255-30-030 [2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; Repealed by PAR 6-1988, f. & cert. ef. 5-19-88]

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 OAR 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 OAR 255-30-035;

(b) Other relevant evidence concerning the prisoner as may be reasonably available.

(3) Board order 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.

Stat. Auth.: ORS Ch. 144

Hist.: PAR 4-1989, f. & cert. ef. 11-1-89

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 evaluation; and

(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.

(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.

(4) Information from the inmate or representative shall be submitted at least seven (7) days prior to the hearing.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 16-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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

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

255-30-040 (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 representatives, 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 set to the inmate unless the victim requests confidentiality.

(4) Information from the inmate or representative shall be submitted at least seven (7) days a prior to the hearing.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 7-1985, f. & ef. 5-31-85; 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef.

**EXHIBIT F
(255-30-035)**

OUTLINE FOR POST SENTENCE REPORT

SECTION I: (Minimum information required)

1. Identifying Data
- 2a. Criminal History/Risk Assessment for Board of Parole Matrix System
- 2b. Criminal History Classification for Sentencing Guidelines System
3. Matrix Application
- 3b. Sentencing Guidelines Grid Block Classification
4. Conviction Chronology and Arrest Record
5. Present Crime Synopsis
6. Aggravating and Mitigating Factors
7. Health, Physical and Mental/Substance Abuse
8. Brief Social Profile

SECTION II:

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

SECTION III:

Attachments, including transcripts, if forwarded by the sentencing judge

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 32 — BOARD OF PAROLE**

DIVISION 32

AGGRAVATED MURDER

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

Prison Term Hearing to be Held

255-32-005 A person convicted of Aggravated Murder under ORS 163.095 shall receive a prison term hearing under the provisions of Division 30 of these rules. A review date congruent with the minimum terms set forth in OAR 255-32-010 shall be set rather than a parole release date.

(2) Persons sentenced to death or life without the possibility of release or parole shall not receive a prison term hearing.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 4-1989, f. & cert. ef. 11-1-89

Minimum Period of Confinement Pursuant to ORS 163.105

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

(2) The minimum period of confinement for a person convicted of aggravated murder as defined by ORS 163.105(2) prior to December 6, 1984 shall be twenty (20) years.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Petition/Purpose for Hearing

255-32-015 The prisoner may petition and the Board shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time:

(1) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(1); or

(2) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(2).

Stat. Auth: ORS Ch. 144
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Purpose of Hearing

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

Manner of Hearing

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

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

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

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

Stat. Auth: ORS Ch. 144
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

Effect of Denying Relief Requested

255-32-035 If the Board finds that the prisoner is not capable of rehabilitation, the Board shall deny the relief sought in the prisoners petition. Not less than two years after the denial the prisoner may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

Record/Notice

255-32-040 Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in Divisions 15 and 30 of these rules.

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

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

DIVISION 35

**APPLICATION OF THE GUIDELINES
TO ESTABLISH A PRISON TERM**

Definitions

255-35-005 [2PB 1-1979, f. & ef. 2-1-79;
2PB 15-1981(Temp),
f. & ef. 11-25-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 9-1985, f. & ef. 5-31-85
PAR 4-1987(Temp),
f. 6-5-87, ef. 6-8-87;
PAR 5-1987(Temp), f. & ef. 6-18-87;
PAR 7-1987(Temp), f. & ef. 6-21-87;
Repealed by PAR 6-1988
f. & cert. ef. 5-19-88]

**Rating Crime Severity: Generally, Multiple
Concurrent Convictions**

255-35-010 [2PB 1-1979, f. & ef. 2-1-79;
2PB 2-1980, f. & ef. 5-20-80;
2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 2-1981, f. 3-5-81, ef. 4-1-81;
2PB 4-1981(Temp), f. & ef. 11-4-81;
2PB 15-1981(Temp),
f. & ef. 11-25-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 9-1985, f. & ef. 5-31-85;
PAR 4-1988, f. 3-30-88,
cert. ef. 4-4-88;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

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

255-35-012 [2PB 4-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
Repealed by 2PB 9-1985,
f. & ef. 5-31-85]

**Factors Which Determine An Initial Parole
Release Date**

255-35-013 During the prison term hearing the Board shall make findings of fact concerning:

- (a) The prison term commencement date;
- (b) The crime severity rating and subcategory rationale (**Exhibit A**);
- (c) The prisoner's history/risk assessment score (**Exhibit B**);
- (d) The matrix range;
- (e) When there is a variation from the range, the reason for the variation;
- (f) Aggravation (**Exhibit E-1**);
- (g) Mitigation (**Exhibit E-2**); and
- (h) Minimum sentences.

Stat. Auth: ORS Ch. 144

Hist.: PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

**Initial Parole Release Date for Offenders
Whose Probations are Revoked November 1,
1989 or Later**

255-35-014 For those offenders whose crimes were committed prior to November 1, 1989 and whose probations are revoked November 1, 1989 or

later the Board shall:

(1) Make the findings of fact listed in OAR 255-35-013 pursuant to Divisions 30 and 35 of the Board of Parole and Post-Prison Supervisions rules; and

(2) Make findings of fact pursuant to the Sentencing Guidelines Grid and applicable rules found in OAR Chapter 253 and herein incorporated by reference including:

- (a) Crime category;
- (b) Criminal history;
- (c) Guidelines ranges (Appendix A to OAR 253);
- (d) Aggravating or mitigating factors, if any;
- (e) Upholding or overriding minimum sentence;
- (f) Summing of consecutive ranges (OAR 253-12-002 to 003); and

(3) Set the prison term pursuant to the Sentencing Guidelines Grid, as long as that prison term is shorter than it otherwise would be under the Board of Parole Matrix Guideline and applicable rules.

Stat. Auth.: ORS Ch 144

Hist.: PAR 4-1989, f. & cert. ef. 11-1-89

Criminal History/Risk Assessment

255-35-015 [2PB 1-1979, f. & ef. 2-1-79;
2PB 1-1980(Temp),
f. 4-7-80, ef. 5-1-80;
2PB 4-1980(Temp), f. & ef. 12-8-80;
2PB 15-1981(Temp),
f. & ef. 11-25-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 9-1985, f. & ef. 5-31-85;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

**Variations From the Ranges for Aggravation
or Mitigating**

255-35-016 (1) The Board may depart from the appropriate range only upon making a specific finding, that there is aggravation or mitigation which justifies departure from the range pursuant to **Exhibit E-1** and **E-2**. The Board shall clearly state on the record the facts and specific reasons for its findings. Items of aggravation and mitigation may be given different weight and are not necessarily balanced one for one.

(2) If a panel finds that the matrix range and the variations permitted a panel are inadequate to establish a prison term because of the panel's findings of aggravation or mitigation, it shall secure a third vote for an additional variation or refer the matter to the Full Board.

(3) The maximum allowable variations from a range are shown in **Exhibit D**. A portion or all of the variation allowed may be applied.

(4) These provisions shall apply equally to unified ranges.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

Multiple Concurrent Convictions

255-35-018 When concurrent sentences exist,

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shall be the parole release date established at the previous prison term hearing.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85; PAR 4-1987(Temp), f. 6-5-87, ef. 6-8-87; PAR 5-1987(Temp), f. & ef. 6-18-87; PAR 7-1987(Temp), f. & ef. 7-21-87; PAR 9-1987, f. & ef. 12-16-87; PAR 6-1988, f. & cert. ef. 5-19-88

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

Effect of Minimum Sentences on Prison Terms Consecutive Minimum Sentences

255-35-023 (1) The Board shall not release a prisoner on parole until a judicially imposed minimum prison term sentence has been served except upon the affirmative vote of four members who have found that:

(a) The minimum term is not an appropriate penalty for the criminal offense; and

(b) The minimum term is not necessary to protect the public.

(2) If at least four members of the Board have made the findings listed in section (1) of this rule, the Board shall establish a prison term using the guideline range and the standard variations allowed.

(3) When there are consecutive minimum sentences and the Board finds that the combined minimums are not appropriate penalties for the criminal offenses involved and are not necessary to protect community security, the Board, by four concurring votes, may override one or more of the judicially imposed minimums and set a prison term which is less than the sum of the minimum terms.

(4) The Board shall set a parole release date in accordance with OAR 255-35-013 or 255-35-014, and shall state the facts and reasons for its actions.

(5) Notwithstanding section (3) of this rule, when the Board overrides a ORS 163.115 murder minimum, the vote must be by unanimous vote of all members.

(6) The Board may not override a ORS 161.610 gun minimum.

(7) The Board may not override a ORS 163.105 aggravated murder minimum.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1987(Temp), f. & ef. 7-7-87; PAR 8-1987, f. 12-11-87, ef. 12-14-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90

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

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

255-35-024 [2PB 9-1985, f. & ef. 5-31-85;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date

255-35-025 When the Board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the maximum initial prison term shall be as follows:

(a) Six months from the statutory good time date on a sentence of at least one year and less than three years;

(b) Nine months from the statutory good time date on a sentence of three and less than six years.

(c) Twelve months from the statutory good time date on a sentence of six or more years.

(2) On short sentences which call for an earlier release date than the guideline range indicates, the following shall apply:

(a) Using the correct crime category for the principal crime, apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b), or (c) will fall and which will provide a fully applicable range.

(b) For subsequent consecutive sentences use the base range unless the principal crime is one of those listed in OAR 255-35-021(4).

(c) For example:

	Sent	GTD	(1)(C)	H/R	CC	Range	
Robbery I	10 yr.	80 mo.	-12 mo. = 68 2	6	6	90-130	44-56
Theft I	5 yr.			2	1	6 - 6	6-6
							50-62

Stat. Auth: ORS Ch. 144
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1980(Temp), f. 4-7-80, ef. 5-1-80; 2PB 15-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 9-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8, 1988, f. & cert. ef. 7-1-88; PAR 2-1990, f. & cert. ef. 4-5-90

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

Parole Denial: When Parole May be Denied

255-35-030 (1) The Board with four (4) affirmative votes may deny parole pursuant to ORS 144.120(4) when:

(a) The offense of commitment included particularly violent or otherwise dangerous criminal conduct as defined by section 255-05-005(27);

(b) The offense was preceded by two (2) or more Class A or Class B felony convictions; or

(c) The prisoner's record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance such as to constitute a danger to the health or safety of the community.

(2) A two-member panel may refer the matter to the Full Board with the recommendation that parole should be denied based on the criteria listed in subsection (1) of this section.

(3) When the Board chooses not to set a parole release date, it shall clearly state on the record the

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**EXHIBIT A - PART I
(255-35-010)**

CRIME SEVERITY RATINGS

<u>ORS</u>	<u>CRIME</u>	<u>FELONY CLASS</u>	<u>RATINGS</u>
163.535	Abandonment of Child	C	2
166.085	Abuse of Corpse	C	3
475.993	Act by Registrant	C	1
163.095	Aggravated Murder	U	7,8
164.057	Aggravated Theft I	B	4
164.325	Arson I	A	6,5
164.315	Arson II	C	2
163.185	Assault I	A	6,5
163.175	Assault II	B	4
163.165	Assault III	C	3,2
161.405	Attempt - Received the crime severity rating one number below the rating for the completed crime, for example, Attempted Arson I would be a 5 if the completed crime could have been classified in subcategory I of Arson I as a 6.		
163.515	Bigamy	C	1
162.015	Bribe Giving	B	3
162.025	Bribe Receiving	B	3
162.275	Bribing Receiving by a Witness	C	2
162.265	Bribing a Witness	C	2
164.225	Burglary I	A	5,4,3
164.215	Burglary II	C	3,2,1
164.220	Carrying Weapon With Intent to Use	C	2
163.275	Coercion	C	4,3
167.017	Compelling Prostitution	B	4
164.377(2X3)	Computer Crime/Proprietary Info	C	2,1
161.450	Conspiracy - Classified at same level as conspired crime, except murder or treason which are reduced to a felony. (e.g., Conspiracy to Commit Burglary I is an A Felony.)		
803.080	Counterfeit Vehicle Title	C	1
475.992(3)	Creation or Delivery of Counterfeit Substance	A,B,C	5,4,3,1
163.005	Criminal Homicide	A	2
164.365	Criminal Mischief I	C	1
163.205	Criminal Mistreatment I	C	2
163.555	Criminal Nonsupport	C	1
165.022	Criminal Possession Forged Instrument I	C	1
165.032	Criminal Possession Forgery Device	C	1
164.140	Criminal Possession Rented/Leased Property	C	2,1
163.145	Criminally Negligent Homicide	C	4,3
163.257	Custodial Interference I	B	3
163.245	Custodial Interference II	C	1
163.673	Dealing in Depictions of Child's Sexual Conduct	B	4
475.995(1)	Delivery of Controlled Substance to Minor	A	4
475.995(2)	Delivery of Controlled Substance to Minor	B	3
475.995(5)	Delivery of Marijuana to Minor	A	4
475.999	Delivery of Controlled Substance to Student or Minor within 1000 feet of School	A	4
475.992(2)	Delivery of Marijuana for Payment	B	4,3,1
167.365	Dogfighting	C	1
811.175;	Driving While Suspended or Revoked	C	1
260.402; 260.555; 260.575; 260.615			
260.645; 260.655(2); 260.655(3);			
260.665(2)(d)-(f); 260.715	Election Law Offenses	C	1
164.885	Endangering Aircraft	C	2
162.165	Escape I	B	5
162.155	Escape II	C	2,1
162.205	Failure to Appear I	C	2
811.705	Failure to Perform Duties of Driver	C	3,2
822.605	False Swearing Relating to Regulation Vehicle Related Business	C	1
166.270	Felon in Possession of Firearm	C	2
532.140; 532.610	Forest Products		
532.620; 532.990(2)	Offenses	U	1
803.230	Forge/Alter Vehicle Title Regis	C	1
165.013	Forgery I	C	3,2,1
59.055; 59.115; 59.127;			
59.135; 59.145; 59.165	Fraud		
59.730; 59.740; 59.750	Involving Securities	B	4,3
59.760; 59.770; 59.780;			
59.790; 59.800;			
165.055(3b)	Fraudulent Use of Credit Card	C	1
811.185	Habitual Traffic Offender (OMVVO)	C	1
166.420	Handgun/Failure to Keep Register	C	2
162.325	Hindering Prosecution	C	1
163.525	Incest	C	3
166.165	Intimidation I	C	2
163.235	Kidnapping I	A	6

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**EXHIBIT A - PART II
(255-35-010)**

**Aggravated Murder
163.095**

Effective 7/1/88

SUBCATEGORY 1 - RATING 8:

Stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation.

SUBCATEGORY 2 - RATING 7:

All other cases of aggravated murder.

**Arson I
164.325**

Unchanged since 1985

SUBCATEGORY 1 - RATING 6:

Knew or should have known premises were occupied at time of act or injury .

SUBCATEGORY 2 - RATING 5:

All other cases of Arson I.

**Assault I
163.185**

Unchanged since 1985

SUBCATEGORY 1 - RATING 6:

Cases of Assault I in which there is intentional cause of serious physical injury to another by means of a deadly or dangerous weapon.

SUBCATEGORY 2 - RATING 5:

Cases of Assault I in which the victim(s) provoke the crime to a substantial degree or other evidence that misconduct by the victim(s) contributed substantially to the criminal episode.

**Assault III
163.165**

Effective 4/4/88

SUBCATEGORY 1 - RATING 3:

Assault III/Vehicular where defendant has at least 2 prior DUII convictions within a 5 year period.

SUBCATEGORY 2 - RATING 2:

All other cases of Assault III.

**Burglary I
164.225**

Effective 7/20/88

SUBCATEGORY 1 - RATING 5:

Entry into a dwelling, where defendant causes or attempts to cause physical injury to any person; is armed with a deadly weapon; uses or threatens to use a dangers weapon; or death occurs.

SUBCATEGORY 2 - RATING 4:

Entry into a dwelling in which goods taken had a value of \$5,000 or more.

SUBCATEGORY 3 - RATING 3:

Entry into a dwelling in which goods taken had a value of less than \$5,000.

**Burglary II
164.215**

Unchanged since 1985

SUBCATEGORY 1 - RATING 3:

Theft or destruction of over \$5,000 in property.

SUBCATEGORY 2 - RATING 2:

Theft or destruction of between \$1,000-\$5,000.

SUBCATEGORY 3 - RATING 1:

Theft of less than \$1,000.

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imposed as a result thereof; or escapes from a correctional facility or, while otherwise under the jurisdiction of the Psychiatric Security Review Board, departs from state without authorization of Board.

SUBCATEGORY 2 - RATING 1:

Escapes while on a pass, terminal leave or work release from a county correctional facility; all other cases.

**Failure to Perform Duties of a Driver
Where There is Injury or Death**
811.705

Effective 7/1/88

SUBCATEGORY 1 - RATING 3:

If death results.

SUBCATEGORY 2 - RATING 2:

Injury and all other cases.

Forgery I
165.013

Effective 7/1/88

SUBCATEGORY 1 - RATING 3:

Loss, potential loss, or receiving of over \$5,000.

SUBCATEGORY 2 - RATING 2:

Loss, potential loss, or receiving of \$1,000 to \$5,000.

SUBCATEGORY 3 - RATING 1:

Loss, potential loss, or receiving of under \$1,000.

Fraud Involving Securities
59.055; 59.115; 59.127; 59.135; 59.145; 59.165;
59.730; 59.740; 59.750; 59.760; 59.770; 59.780; 59.790; 59.800

Effective 7/20/88

SUBCATEGORY 1 - RATING 4:

Loss, potential loss, or receiving of \$10,000 or more

SUBCATEGORY 2 - RATING 3:

All other cases of fraud involving securities.

Manslaughter II Effective 4/4/88
163.125

SUBCATEGORY 1 - RATING 5:

Cases where death of a victim, usually a child, results from prolonged abuse; failure to provide for victim's welfare resulting in death; medical treatment withheld to conceal physical signs of abuse.

SUBCATEGORY 2 - RATING 4:

Causes another to commit suicide or aids, cases where death of victim involves use of a weapon or follows an assault; cases where death is by negligent use of vehicle and defendant has at least 2 prior DUI convictions within 5 years.

SUBCATEGORY 3 - RATING 3:

Cases where death is by negligent use of a vehicle; all other cases.

Manufacture of Controlled Substance
475.992(1); 475.993(2)(a)

Effective 7/14/88

SUBCATEGORY 1 - RATING 5:

Operating or assisting in the operation of a laboratory for the production of methamphetamines. Cultivating or assisting in the manufacture of marijuana for distribution or sale as part of a distribution network or scheme; see Exhibit A-III. Cultivation or assisting in the cultivation of more than 100 marijuana plants.

SUBCATEGORY 2 - RATING 4:

Manufacturing or assisting in the manufacture of illegal drugs other than methamphetamines or marijuana, when there is evidence that the manufacture is part of a drug selling or distribution network or

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**Rape II
163.365**

Amended 11/1/89

SUBCATEGORY 1 - RATING 4:

Cases in which the female is under 14 years of age.

SUBCATEGORY 2 - RATING 3:

All other cases.

**Robbery I
164.415**

Effective 7/20/88

SUBCATEGORY 1 - RATING 6:

Cases of robbery in which the defendant is armed with a deadly or dangerous weapon; discharges a firearm; uses a dangerous weapon; makes explicit or immediate threats by word or gesture; causes death of or physical injury to the victim.

SUBCATEGORY 2 - RATING OF 5:

All other cases of Robbery I.

**Sexual Penetration with Foreign Object I
163.411**

Amended 11/1/89

SUBCATEGORY 1 - RATING 6:

Sexual Penetration with Foreign Object I is broken down in the same manner as Rape I.

SUBCATEGORY 2 - RATING 5:

All other cases.

**Sodomy I
163.405**

Amended 11/1/89

SUBCATEGORY 1 - RATING 6:

Sodomy I is broken down in the same manner as Rape I.

SUBCATEGORY 2 - RATING 5:

All other cases.

**Supplying Contraband
162.185**

Effective 12/06/88

SUBCATEGORY 1 - RATING 4:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any firearm; knowingly introduces any firearm into a correctional facility, juvenile facility, or state hospital.

SUBCATEGORY 2 - RATING 3:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses dangerous weapon; knowingly introduces any dangerous weapon into a correctional facility, juvenile facility or state hospital.

SUBCATEGORY 3 - RATING 2:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any Schedule I, II, or III controlled substance except marijuana; knowingly introduces any Schedule I, II or III controlled substance into a correctional facility, juvenile facility or state hospital.

SUBCATEGORY 4 - RATING 1:

All other cases.

**Theft by Deception
164.085**

Theft I amended 8/5/88

Breakdown is the same as for Theft I.

**Theft by Extortion
164.075**

Unchanged since 1985

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**EXHIBIT A-PART III
(255-35-010)**

Effective 7/14/88

NOTE: FOR PURPOSES OF THE EXHIBIT A "illegal drugs" MEANS SCHEDULE I, II, AND III SUBSTANCES.

EVIDENCE OF A DRUG SELLING OR DISTRIBUTION SCHEME OR NETWORK INCLUDES, BUT IS NOT LIMITED TO THE FOLLOWING:

- A. The presence of substantial amounts of cash on the premises;
- B. Heavy traffic on the premises;
- C. The presence of weapons on the premises;
- D. The presence of packaging materials such as scales, wrapping or foil;
- E. The presence of drug transaction records or customer lists;
- F. The presence of quantities of stolen property;
- G. Modification of structures by painting, wiring, plumbing, or lighting to facilitate the offense;
- H. Possession of large amounts of illegal drugs creates a presumption of intent to sell or deliver;
- I. Possession of real or personal property of substantial value, directly or by proxy, without plausible means of lawful income;
- J. A showing that the offender has engaged in repeated similar criminal acts;
- K. The presence of manufacturing paraphernalia, including recipes, precursor chemicals, or laboratory equipment on the premises;
- L. Use of public lands for the manufacture of drugs;
- M. Deployment of security devices with the potential of injuring intruders, including spring guns or explosive devices; or
- N. The presence of substantial quantities of controlled substances on the premises.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 35 — BOARD OF PAROLE**

**EXHIBIT B - PART I
(255-35-015)**

CRIMINAL HISTORY/RISK ASSESSMENT

(A)	No prior felony convictions as an adult or juvenile:	3	
	One prior felony conviction;	2	
	Two or three prior felony convictions:	1	
	Four or more prior felony convictions:	0	_____
(B)	No prior felony or misdemeanor incarcerations, i.e., executed sentences or 90 days or more), as an adult or juvenile:	2	
	One or two prior incarcerations:	1	
	Three or more prior incarcerations:	0	_____
(C)	Verified period of 3 years felony conviction free in the community prior to the present commitment:	1	
	Otherwise:	0	_____
(D)	Age at commencement of behavior leading to this incarceration	DOB: _____	
	26 or older and at least one point received in Items A, B, or C:	2	
	26 or older and no points received in A, B, or C:	1	
	21 to under 26 and at least one point received in A, B, or C:	1	
	21 to under 26 and no points received in A, B, or C:	0	
	Under 21:	0	_____
(E)	Present commitment does not include parole, probation, failure to appear, release agreement, escape or custody violation:	2	
	Present commitment involves probation, release, agreement or failure to appear violation:	1	
	Present commitment involves parole, escape or custody violation:	0	_____
(F)	Has no admitted or documented substance abuse problem within a 3 year period in the community immediately preceding the commission of the crime of conviction:	1	
	Otherwise:	0	_____

TOTAL HISTORY/RISK ASSESSMENT SCORE: _____

TOTAL RANGE: _____

ADJUSTED COMMITMENT DATE: _____

CRIME SEVERITY: _____

INSTITUTION NUMBER: _____

NAME: _____

SID: _____

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 35 — BOARD OF PAROLE**

**EXHIBIT B - PART II
(255-35-015)**

CODING INSTRUCTIONS: HISTORY/RISK SCORE

The instructions address the application of the history/risk scoring instrument in most circumstances. Invariably, situations will arise where judgment will have to be exercised. As a general rule, never delete a point when doubt exists, note such doubtful items.

(A) No prior felony convictions as an adult or juvenile:	3
One prior felony conviction:	2
Two or three prior felony conviction:	1
Four or more prior felony conviction:	0

In general, the purpose of this item is to consider previous verified instances of criminal conduct.

1. **Adult Convictions.** Count as a prior conviction all adult convictions for criminal acts classed as felonies. Count convictions in a foreign country for criminal behavior that would be classed as a felony in Oregon.
2. **Juvenile Convictions.** Count adjudications transpiring prior to the 16th birthday if incarceration results. Count adjudications for a juvenile who has passed his 16th birthday for offense behaviors that would have been felonies if committed by an adult. Formal probation and wardship are considered to constitute a conviction providing the foregoing criteria are met. Do not count any juvenile charge which results in informal probation.
3. **Effective Age.** Count as a conviction, a finding by a court that a juvenile who has passed his 16th birthday, who while either on probation or parole for a crime classified as a felony, committed a new felony, even though the probation/parole was continued.
4. **Military Convictions.** Count prior convictions for behavior which would constitute a felony if committed in Oregon.
5. **Convictions Pardoned.** Count felony offenses which have been pardoned on grounds other than innocence. Do not count convictions or adjudications which were set aside or pardoned on the grounds of innocence. Do not count any convictions which have been expunged pursuant to court order. Do not count offenses which have resulted in a finding of guilty except for insanity.
6. **Convictions Reversed or Vacated on Constitutional Grounds.** Do not count felony convictions reversed or vacated on constitutional grounds (e.g., that an indigent defendant was deprived of his/her right to counsel). However, it is presumed that a conviction/adjudication is valid unless the evidence is clear that it is not. If a prisoner challenges such conviction, the prisoner should be advised to petition for a reversal of such conviction in the court in which the prisoner was originally tried, and then to provide the board with evidence of such reversal.
7. **Uncounseled Convictions.** Do not count felony convictions if the documents clearly show that the defendant neither had counsel nor waived counsel for a particular conviction. Count convictions where the offender chooses to represent himself.

If an offender challenges counting an offense on the basis that it was uncounseled, consider the circumstances prior to granting the relief. In weighing the evidence, recent convictions and serious convictions increase the burden on the offender for producing criteria to overcome the presumption that the crime was counseled. If the conviction record is not clear and several years have elapsed, the conviction would be more susceptible to challenge that it was uncounseled.
8. **Diversion.** Do not count convictions resulting in diversion from the judicial process without a specific finding of guilt (e.g., deferred prosecution, probation without plea).
9. **Convictions Now Classed as Misdemeanors.** Count as a conviction, offenses which were previously felonies but are now only misdemeanors if the offense occurred at a time when they were sanctioned as a felony. Count convictions classed as felonies which are sanctioned as misdemeanors.
10. **Present Conviction.** Do not count the present offense or offenses as prior convictions.
11. **Old Prior Record.** Do not count prior felony convictions or commitments under Item A or B, if the offender has maintained a felony conviction free record of ten years in the community immediately prior to the current offense behavior. The ten (10) year period is counted between the date of the last conviction countable under Item A or release from the last commitment countable under Item B (whichever comes last) and the date of commencement of the current offense behavior. If the prisoner was on parole or probation in the community and did not commit any felonies, that is considered conviction free time in the community.

Notwithstanding the above, count any homicide or conviction categorized as a 6 even if it is over ten (10) years old and the offender has been crime free. Note: This does not preclude consideration of earlier behavior (e.g., repetition of particularly serious or assaultive conduct) as an aggravating factor. Similarly, a substantial crime free period in the community, not amounting to ten (10) years, may be considered as a mitigating factor.
12. **Intervening Probation.** When any new felony conviction occurs while on felony probation, and the new conviction is the basis for the current commitment, the original conviction leading to the probation shall constitute a prior conviction.

When the current commitment is the result of a probation revocation for non-criminal behavior, the original conviction leading to the probation shall not constitute a prior conviction.

However, all felony convictions incurred since the inception of the original probation shall constitute countable prior convictions. Notwithstanding 10 above, it does not matter that the probation also results in the current incarceration.
13. **Merged Convictions.** Judicially merged convictions at the time of sentence will be counted as one conviction. However, the offense that was merged may be considered as aggravation.
14. **Documentation.** Document the foregoing through official criminal justice system instruments (e.g., court orders, presentence investigation, police and parole/probation officer reports, computerized criminal histories, and other criminal justice systems

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 35 — BOARD OF PAROLE**

5. Score 0 if the offender was under 21 at the commencement of the current offense.
6. Age. Use the offender's age at the time the crime was committed unless the offender was initially placed on probation, in which case the offender's age at the time of the behavior leading to revocation should be used.

(E) Present commitment does not include parole, probation, failure to appear, release agreement, escape, or custody violation:

Present commitment involves probation, release agreement or failure to appear violation:

Present commitment involved parole, escape or custody violation:

1. **Probation Violation.** Count as a probation violation if the offender was on felony probation when the misconduct occurred. It does not matter if the probation was continued or terminated. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the person was on probation.
2. **Release Agreement Violation.** Count as a release agreement violation if an offender committed the present offense while on release, bail or other custody reduction from any legal jurisdiction. If an offender, pursuant to being arrested for the present crime, is granted bail or release on own recognizance and subsequently fails to appear at the time and place specified by a court, a violation is considered to have occurred.
3. **Failure to Appear.** Count as a failure to appear violation any sentence to the Corrections Division for Failure to Appear. A probation imposed for Failure to Appear, where Failure to Appear transpired following arrest for the present crime, is counted as a Failure to Appear Violation.
4. **Parole Violation.** Count as a parole violation misconduct occurring while on parole. It does not matter whether the parole was continued or revoked nor does it matter in what jurisdiction the parole was imposed. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the offender was on parole.
5. **Escape.** Count as an escape if serving a sentence for Escape. Count as an escape if offender escapes from custody following an arrest, conviction or sentencing. Count escape as a trust violation even if it was not adjudicated. Escape means the unlawful or unauthorized departure of a person from custody or a correctional facility. Escape includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board. Escape does not include failure to comply with provisions of a conditional release in ORS 135.245.
6. **Custody Violation.** Count as a custody violation if the present crime or crimes were committed while in custody (e.g., county jail, prison, work release center, probation center, forest camp, terminal leave, temporary leave, social pass).

(F) Has no admitted or documented substance abuse problem within a three year period in the community immediately preceding the commission of the crime of conviction.

Otherwise:

0

1. **Documentation.** Substance abuse may be documented by admission, diagnosis of competent medical or counseling professional, participation in treatment program, or preponderance of such evidence as possession, urinalysis, and needle tracks.

Substance Abuse: Use of Schedule 1, 2, and 3 drugs and alcohol in quantities and under circumstances that lead to impairment of functioning, or health, or that specifically results in harm to other people and/or loss of property.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 35 — BOARD OF PAROLE**

**EXHIBIT C
(255-35-025)**

TIME TO BE SERVED

(All Ranges in Categories 1 - 8 Shown in Months)

CRIME SEVERITY RATING	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
	11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
	Base Range			
Category 1	06-06	06-06	06-10	12-18
Category 2	06-06	06-10	10-14	16-24
Category 3	06-10	10-14	14-20	22-32
Category 4	10-16	16-22	22-30	32-44
Category 5	16-24	24-36	40-52	56-72
Category 6	30-40	44-56	60-80	90-130
Category 7	96-120	120-156	156-192	192-240
Category 8	120-168	168-228	228-288	288-Life

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 35 — BOARD OF PAROLE**

**EXHIBIT D
(255-35-035)**

**GUIDELINE MATRIX
STANDARD VARIATIONS FROM THE RANGES**

	CRIME CATEGORY	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
		11-9 Excellent	8-6 Good	5-3 Fair	2-0 Poor
		STANDARD VARIATIONS			
1.	(Panel)	3*	3	3	3
2.	(Panel)	3	3	3	4
3.	(Panel)	3	3	3	6
4.	(Panel)	3	3	4	6
5.	(Panel)	4	6	6	8
6.	(Panel)	24	24	24	24
7.	(Board)	36	36	36	36
8.	(Board)	36	36	36	

*All numbers represent standard variations in months.

The maximum variation allowed in crime categories 1 through 6 are:

- (a) For a panel: two standard variations.
- (b) For a panel with a concurring vote (3 concurring votes): three times the standard variation.
- (c) For four (4) concurring votes: four times the standard variation.
- (d) For five (5) concurring votes after a hearing before the Board pursuant to OAR 255-30-015; five times the standard variation.

The maximum variations allowed for Category 7 and 8 crimes are:

- (a) For three (3) concurring votes: the standard variation of 36 months.
- (b) For four (4) concurring votes two times the standard variation of 36 months (72 months).
- (c) For five (5) concurring votes: three times the standard variation of 36 months (108 months).

The Board may deny parole pursuant to OAR 255-35-030.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 35 — BOARD OF PAROLE**

**EXHIBIT E - PART I
AGGRAVATING FACTORS**

- _____ A. Threat or violence toward witness or victim by producing or using any weapon; or representing by word or conduct threats of death or physical injury. (11/1/89)

- _____ B. Crime committed as a result of prejudice regarding the status of the victim (e.g., race, religion, gender, sexual orientation). (11/1/89)

- _____ C. Knew or had reason to know the victims were particularly vulnerable i.e., aged, handicapped, very young. (Pursuant to ORS 144.787, in cases of physical or sexual assault, a victim's particular vulnerability to injury shall constitute an aggravating factor.) (Explanation added 7/1/88 and amended 11/1/89)

- _____ D. Ability to make restitution or reparation and failed to do so. (1985 to present)

- _____ E. Violation of position of trust or recognized professional ethics. (7/1/88 to present)

- _____ F. Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime. (1985 to present)

- _____ G. There is a single conviction for a crime involving multiple victims or incidents. (1985 to present)

- _____ H. Concurrently imposed sentences not arising out of same criminal episode. (Amended 11/1/89)

- _____ I. Verified instances of repetitive assaultive conduct only when criminal episode(s) involved assaultive behavior. (7/1/88 to present)

- _____ J. More than 3 trust violations in last 5 years as relates to Item E of the Matrix Computation. (7/1/88 to present)

- _____ K. Persistent involvement in similar criminal offenses. (7/1/88 to present)

- _____ L. Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse). (7/1/88 to present)

- _____ M. Criminal history more extensive or serious than reflected by History/Risk Score. (7/1/88 to present)

- _____ N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted. (1985 to present)

- _____ O. Consecutive sentences pursuant to Section 4, Chapter 634, Oregon Laws 1987. (7/1/88 to present)

- _____ P. Crime committed as a part of gang related activity. (11/1/89)

- _____ Q. Other.

Inmate: _____

Inst.: _____

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

EXHIBIT E - Part II
(255-35-035)

MITIGATING FACTORS

- _____ A. Evidence that misconduct by victim contributed to the criminal episode. (7/1/88 to present)

- _____ B. Sustained effort to make restitution or reparation. (7/1/88 to present)

- _____ C. Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime. (1985 to present)

- _____ D. Evidence of withdrawal, or lack of sustained criminal intent. (7/1/88 to present)

- _____ E. Evidence of reduced responsibility or lack of mental capacity (e.g., mental retardation and/or severe mental/emotional disorder which is insufficient to constitute a defense but is indicative of reduced culpability.) (7/1/88 to present)

- _____ F. Successful period of community supervision, at least 18 months immediately preceding commission of crime. (7/1/88 to present)

- _____ G. Successful completion of treatment program and abstinence from substance abuse for 1 year during the 3 years immediately preceding commission of crime. (amended 11/1/89)

- _____ H. Criminal history less extensive or serious than reflected by History/Risk Score. (7/1/88 to present)

- _____ I. Probation violation is technical in nature and not indicative of ongoing criminal pattern. (7/1/88 to present)

- _____ J. The crimes were part of a "crime spree" and that the spree is not indicative of a persistent criminal orientation. (7/1/88 to present)

- _____ K. Special effort on the part of the perpetrator to minimize the harm or risk. (1985-6/30/88, 11/1/89)

- _____ L. Other. (11/1/89) _____

Inmate: _____

Inst: _____

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

*Should be
Division
75*

BOARD OF PAROLE AND
POST-PRISON SUPERVISION
STATE OF OREGON

vs

PAROLEE/OFFENDER)

)
)
)
CONSENT TO AN ORDER CHANGING
TERMS AND CONDITIONS OF PAROLE
AND/OR POST-PRISON SUPERVISION

PROPOSED CHANGE:

CONSENT
I HAVE READ THE ABOVE PROPOSED CHANGE TO THE TERMS AND/OR CONDITIONS OF MY PAROLE AND/OR SUPERVISION. I HAVE BEEN ADVISED BY MY PAROLE OFFICER THAT I HAVE THE RIGHT TO CONSULT WITH AN ATTORNEY; THAT I NEED NOT AGREE TO THIS CHANGE AND, IF I DO NOT, A HEARING WILL BE SCHEDULED AND THE BOARD OF PAROLE AND POST-PRISON SUPERVISION WILL DECIDE WHETHER OR NOT THE PROPOSED CHANGE SHALL BE MADE. I AGREE TO WAIVE MY RIGHT TO CONSULT WITH AN ATTORNEY AND TO HAVE A HEARING ON THE PROPOSED CHANGE. I AGREE THAT THE ABOVE PROPOSAL BE MADE A PART OF THE PAROLE ORDER OR OTHER ORIGINAL DOCUMENT SETTING FORTH THE TERMS AND CONDITION OF MY PAROLE.

DATED THIS _____ DAY OF _____, 1989.

PAROLEE/OFFENDER

WITNESS

PAROLEE'S/OFFENDER'S ADDRESS: _____

PAROLE OFFICER'S NAME: _____ PHONE: _____

PLEASE PRINT

PAROLE OFFICE: _____

cc: BOARD OF PAROLE AND POST-PRISON SUPERVISION (Original), FILE

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 37 — BOARD OF PAROLE**

DIVISION 37

DANGEROUS OFFENDERS

Release Hearings

255-37-005 (1) Within six (6) months after commitment to the custody of the Department of Corrections of any person sentenced as a dangerous offender, the Board shall set a date for a release hearing which shall be no later than ten (10) days prior to the date the offender is eligible for release on post-prison supervision.

(2) A person sentenced as a dangerous offender for felonies committed on or after November 1, 1989 is eligible for release on post-prison supervision:

(a) After the Board finds the condition which made the prisoner dangerous is absent or in remission; and

(b) After having served the presumptive sentence set forth on the judgment order.

(3) When the Board finds the dangerous condition is not absent or in remission, reviews will be scheduled at least once every two (2) years until the condition is absent or in remission at which time a release date will be set.

(4) If after finding the dangerous condition is absent or in remission, the Board later has reasonable cause to believe the condition has returned, the Board may order a psychiatric evaluation pursuant to ORS 144.226 and shall conduct a new release hearing.

(5) If, at the release hearing or at any subsequent review, the Board determines the condition is absent or in remission, the Board shall order release to post-prison supervision subject to the provisions of sections 32a and 32b of HB2250, regarding supervision conditions and review of release plans and subject to eligibility for release.

(6) At any hearing or review, the Board may consider:

(a) The written report of the examining psychiatrist;

(b) A written report to be made by the executive officer of Department of Corrections institution in which the prisoner has been confined;

(c) Any other information regarding the prisoner that the Board finds relevant.

Stat. Auth.: ORS Ch. 144

Hist.: PAR 4-1989, f. & cert. ef. 11-1-89

Psychiatric Evaluations

253-37-010 (1) Within sixty (60) days of the last day of the presumptive sentence and at least every two years thereafter, the Board shall order from the Oregon State Hospital a complete physical, mental and Psychiatric examination of the offender.

(2) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other information the psychiatrist believes will aid the Board in determining whether the examined person is eligible for release.

(3) The report of the psychiatrist shall:

(a) Include a statement as to whether or not the dangerous offender has any mental or emotional disturbance, deficiency or condition predisposing him/her to the commission of any crime to a degree rendering the offender a menace to the health or safety of others;

(b) State progress or changes in the condition of the examined offender;

(c) Contain recommendations for treatment or medication that would assist the offender in performing satisfactorily in the community upon release;

(d) Be filed with the Board within 40 days after the examination;

(e) Be certified and sent to the offender, the offender's attorney, and to the institution superintendent.

Stat. Auth.: ORS Ch. 144

Hist.: PAR 4-1989, f. & cert. ef. 11-1-89

Department of Corrections Written Reports

255-37-015 The written report of the executive officer of the Department of Corrections, which the Board shall review at the release hearing, shall contain:

(1) A detailed account of the offender's conduct while confined;

(2) All infractions of rules and discipline, the circumstances, and the punishment imposed;

(3) Extent to which the offender has responded to efforts made in the institution to improve his/her mental and moral condition;

(4) A statement as to the person's present attitude towards society, the sentencing judge, the district attorney, and the arresting police officer;

(5) A statement as to the offender's present attitude towards his/her previous criminal career;

(6) The industrial record showing average number of hours worked per day and the nature of the occupations;

(7) A recommendation as to the kind of work, if any, the person is best fitted to perform and at which he/she is most likely to succeed upon leaving the institution.

Stat. Auth.: ORS Ch. 144

Hist.: PAR 4-1989, f. & cert. ef. 11-1-89

Request for Review Prior to Release Hearing Date

255-37-020 (1) Notwithstanding section (1) of 255-37-005, prisoner sentenced as a dangerous offender under ORS 161.725 and 161.735 may, if the prisoner can present evidence that his/her dangerous condition may be absent or in remission, request a release hearing prior to the earliest time the prisoner is eligible for release to post-prison supervision or a two year review.

(2) The Board shall review the request for a release hearing by administrative file pass.

(3) If Board finds, based upon the request and the information therein, there is reasonable cause to believe the dangerous condition is absent or in remission, the Board shall conduct a release

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 38 — BOARD OF PAROLE**

DIVISION 38

DANGEROUS OFFENDERS

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

255-38-005 (1) Notwithstanding the provisions of Division 60, the Board shall set a date for a parole consideration hearing instead of an initial release date for a person sentenced under ORS 161.725 and 161.735 as a dangerous offender.

(2) The Board shall set a date for a parole consideration hearing pursuant to the provisions of Division 35, within six (6) months after commitment to the custody of the Department of Corrections.

(3) The date set for parole consideration shall be at the date upon which the prisoner would otherwise be set for parole release.

(4) If the condition which made the prisoner dangerous is still present on the parole consideration hearing date, reviews will be scheduled at least every two (2) years until the condition is absent or in remission.

(5) The Board shall not set a release date unless the psychiatric report reveals that the condition which made the prisoner dangerous is absent or in remission. The report required under this subsection shall be made within two (2) months of the date of its consideration.

(6) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other pertinent data. The evaluation should include recommendations for treatment or medication that would assist the prisoner in performing satisfactorily in the community upon release.

(7) If, at the parole consideration hearing or at any subsequent review, the condition is determined to be absent or in remission, the Board shall order parole release subject to the provisions of 144.125.

(8) At any hearing or review, the Board shall consider:

(a) The written report of the examining psychiatrist as defined by ORS 144.226 (1) and (2);

(b) A written report to be made by the executive officer of the penal or correctional institution in which the prisoner has been confined pursuant to the standards set forth in ORS 144.228(2)(b); and

(c) All other information available regarding the prisoner.

(9) Notwithstanding the above, a prisoner sentenced as a dangerous offender under ORS 161.725 and 161.735 may, if the prisoner believes that he is no longer dangerous, request a parole consideration hearing prior to the earliest time the prisoner is eligible for parole or a two year review.

(10) The Board shall review the request pursuant to section (9) of this rule by administrative file pass. Should the Board find, based upon the request and the information therein, there is a reasonable cause to believe the dangerous condition is in remission, the Board shall conduct a review as soon as reasonably convenient.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 9-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 10-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88 (and corrected 6-23-88)

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

The Parole Consideration Hearing Packet

255-38-010 The Parole Consideration Packet shall contain:

(1) Institution face sheet;

(2) All Board Action Forms since the prison term hearing;

(3) Oregon State Hospital psychiatric evaluations, and reports pursuant to ORS 144.226 to ORS 144.228;

(4) Documents listed in OAR 255-38-005(8);

(5) Correspondence;

(6) Field parole analysis report; and

(7) Court orders.

Stat. Auth: ORS Ch. 144

Hist.: PAR 6-1988, f. & cert. ef. 5-19-88 (and corrected 6-23-88)

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 40 — BOARD OF PAROLE**

DIVISION 40

**PERSONAL REVIEWS AND
REDUCTIONS IN PRISON TERMS**

Scheduling of Personal Reviews

255-40-005 (1) Personal reviews may be conducted every three years for those prisoner's whose crimes were committed prior to November 1, 1989. The Board will only conduct a personal review hearing after it has received from the institution a recommendation for a reduction in the prison term as described in OAR 255-40-025(1).

(2) Personal review dates shall be computed from the original adjusted commitment date on an uninterrupted period of incarceration.

(3) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the OAR 255-40-025(2).

(4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews. Dangerous offenders whose condition is found absent or in remission and whose parole release date has been set may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections. (Amended November 1, 1989).

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85; PAR 3-1988(Temp), f. 3-30-88, cert. ef. 4-4-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 16-1988(Temp), f. & cert. ef. 10-4-88; PAR 18-1988, f. & cert. ef. 12-6-88; PAR 4-1989, f. & cert. ef. 11-1-89

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

Procedure for Personal Reviews

255-40-010 Personal reviews shall be conducted by a panel or a Full Board pursuant to OAR 255-30-015.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 11-1985, f. & ef. 5-31-85; 2PB 2-1986(Temp), f. & ef. 11-13-87; 2PB 3-1986(Temp), f. & ef. 12-2-86

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

Purpose

255-40-015 [2PB 1-979, f. & ef. 2-1-79;
Repealed by 2PB 11-1985,
f. & ef. 5-31-85]

Reopening Cases

255-40-020 [2PB 1-1979, f. & ef. 2-1-79;
2PB 2-1980, f. & ef. 5-20-80;

2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 14-1981(Temp),
f. & ef. 11-25-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 11-1985, f. & ef. 5-31-85;
PAR 3-1988(Temp),
f. 3-30-88, cert. ef. 4-4-88;
PAR 6-1988, f. & cert. ef. 5-19-88
Repealed by PAR 18-1988,
f. & cert. ef. 12-6-88]

Resetting the Parole Release Date to an Earlier Date

255-40-025 (1) An established prison term as defined in section 255-05-005(30), may be reduced under section (2) of this rule upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. Such a request for a hearing must come to the Chairperson of the Board, and upon receipt, a hearing will be scheduled. The Board may at its discretion take administrative action to reset the parole release date to an earlier date.

(2) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review, under this section. Cases will be reviewed based on the following criteria:

(a) The individual merits of each case, however, the criteria may include;

(b) The seriousness of the crime;

(c) The protection of the public;

(d) Demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);

(e) Documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and

(f) The absence of disciplinary actions resulting from violation of rules within the three year period.

(3) Special requests for reduction from the superintendent of the parent institution and the Director of the Department of Corrections may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.

(4) The criteria for a special request reduction shall be:

(a) When an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or

(b) When cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on going criminal activity.

(5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any reduction under consideration.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-979, f. & ef. 2-1-79; 2PB 14-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 11-1985, f. & ef. 5-31-85; PAR 3-1988(Temp), f. 3-30-88, cert. ef. 4-4-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 18-1988, f. & cert. ef. 12-6-88

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 50 — BOARD OF PAROLE**

DIVISION 50

**POSTPONING A PAROLE
RELEASE DATE**

Grounds For Postponing a Parole Release Date

255-50-005 (1) The Board shall postpone a prisoner's scheduled release date according to the procedures set forth in 255-50-010, if it finds, that the prisoner engaged in serious misconduct during confinement.

(2) The Board may postpone a prisoner's scheduled release date upon:

(a) A report of serious misconduct and a recommendation for an extension of the prison term from the Director of the Department of Corrections or designee;

(b) Reasonable grounds to believe a prisoner has violated a law or engaged in serious misconduct; or

(c) The refusal of a prisoner to participate in psychiatric or psychological evaluation ordered by the Board pursuant to ORS 144.223.

(d) Notification of unauthorized absence.

(2) The Director of the Department of Corrections or designee may recommend an extension of a prisoner's parole release date as a disciplinary sanction.

(3) If serious misconduct occurs before a prisoner's prison term has been established and an extension of the prison term would be justified, the time for misconduct will be added to the prison term.

(4) If serious misconduct occurs after a prison term has been established and an extension of the prison term would be justified, the Board may rescind the parole release date and order a postponement hearing to consider extending the prison term.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-1-88; PAR 4-1989, f. & cert. ef. 12-1-89; Renumbered to 255-50-011(2), (3), (4) & (5)

Postponement Procedures: Hearing by Board; Board Action

255-50-010 (1) When a parole postponement hearing is held, the following procedure will apply:

(a) The prisoner shall be given notice of the hearing and its purpose; the provisions of Division 30 as to appearance, disclosure, and record shall apply except;

(b) A prisoner may not waive his/her right to appear;

(c) A prisoner may not relitigate facts which have been found at the institution's disciplinary hearing.

(2) Serious misconduct is classified within one of the following four categories and the prison term may be extended as provided in **Exhibit G**:

(a) Hazard to human life or health;

(b) Hazard to security;

(c) Hazard to property; or

(d) Third in a series of rule violations within a

three month period, while assigned to any Department of Corrections program.

(3) The Board may request that the prisoner be given another hearing before the disciplinary committee originating the recommendation for extension, or choose not to extend a prison term if the Board finds that other disciplinary options are adequate for the seriousness of the misconduct, considering the factors found in rule 255-50-005.

(4) The Board may continue the postponement hearing and order a psychiatric or psychological examination when it appears that a severe emotional disturbance may be present. If there is a psychiatric or psychological diagnosis of present severe emotional disturbance, such as to constitute a danger to the health or safety of the community, the Board may defer release to a specified future date. In choosing not to set a parole release date, rule 255-35-030 shall apply.

(5) Resets under two years will be panel cases, unless it has been previously designated a ~~Full~~ Board case.

(6) When the recommended extension of the prison term exceeds the prisoner's statutory good time date or the sentence expiration date, the prison term may be extended up to one day less than the good time date or expiration date.

(7) If the Board extends the prison term, the prisoner shall be given:

(a) The final order including, a written statement of the category of misconduct, if applicable, facts and specific reasons for the decision, including the individual votes of the Board members; and

(b) Notice of the right to administrative appeal pursuant to Division 80.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

Department of Corrections Report of Misconduct

255-50-011 (1) The Director of the Department of Corrections or designee may recommend an extension of a prisoner's parole release date as a disciplinary sanction.

(2) A recommendation to extend a prison term shall be made according to the following guidelines:

(a) The prisoner must be given an opportunity for a Department of Corrections disciplinary hearing and have been found to have violated a rule governing conduct; and

(b) In no instance shall an extension of a prison term be recommended unless all other disciplinary options have been specifically considered and deemed to be, individually and in combination, inadequate for the seriousness of the misconduct.

(3) The following factors shall be considered in determining whether an extension is appropriate:

(a) Effectiveness of the sanction as a disciplinary measure, both to the prisoner and to the general prison population;

(b) Degree of hazard posed to human health life, facility security, or to property;

(c) Seriousness of the misconduct had it been

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 50 — BOARD OF PAROLE

Misconduct Board Review Packet

255-50-025 The Misconduct Board Review

Packet shall contain:

- (1) Institution face sheet;
- (2) All Board Action Forms since the prison term hearing;
- (3) Psychological evaluation;
- (4) Disciplinary report from the institution;
- (5) Correspondence;

- (6) Field parole analysis report;
- (7) Court orders;
- (8) PSI, PSR, PAR or document of similar content;
- (9) DOC hearings officer's findings and recommendations.

Stat. Auth: ORS Ch. 144

Hist.: PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 50 — BOARD OF PAROLE

EXHIBIT G
(255-50-005)

MISCONDUCT FACTORS

	AMOUNT OF TIME	
CATEGORY	MINIMUM	MAXIMUM
(1) Hazard to Human Life	50% of the prison term	100 of the prison term. In no instance may the extension exceed 5 years.
(2) Hazard to Security	25% of the prison term	50% of the prison term. In no instance may the extension exceed 2 years.
(3) Hazard to Property	10% of the prison term	20% of the prison term. In no instance may the extension exceed 1 year.
(4) Third in a series of rule violations in a three-month period, while assigned to any Department of Corrections program.	5% of the prison term	10% of the prison term. In no instance may the extension exceed 6 mos.

The extension must be set within the minimum and maximum range for the category of misconduct (see categories 1-4 above), unless the Board finds aggravation or mitigation based on those factors listed in **Exhibit E**. If a basis for aggravation or mitigation is found by the Board, the maximum variation allowed to a majority of the Board would be twenty-five percent of the sanction recommended.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 60 — BOARD OF PAROLE**

DIVISION 60

**RELEASE TO POST-PRISON
SUPERVISION OR PAROLE AND
EXIT INTERVIEWS**

Exit Interviews

255-60-006 (1) At any time prior to ten days before a prisoner's scheduled release to post-prison supervision or parole, the Board on its own initiative or on the request of the Department of Corrections, may conduct an exit interview to review the prisoner's:

- (a) Release plan;
- (b) Victim's statements, if any;
- (c) PSR or similar report;
- (d) Psychiatric/psychological reports, if any;
- (e) Conduct while in confinement; and
- (f) Any other information relevant to the prisoner's reintegration into the community that may be submitted by the prisoner, the prisoner's attorney, the Department of Corrections or any other person.

(2) The procedures governing exit interviews shall be the same as the procedures for records, disclosure and notice outlined in Divisions 15 and 30.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 8-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 13-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; (Renumbered sections (3), (4), (5), (6) to 255-60-008)

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

Release Plans

255-60-008 (1) The Board shall examine the prisoner's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:

- (a) Employment;
- (b) School, or other situation (e.g., retirement income);
- (c) Verifiable residence;
- (d) A description of support services, program opportunities and treatment programs;
- (e) Prescribed medication;
- (f) Recommend conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
- (g) Level of supervision consistent with the prisoner's risk assessment classification; and
- (h) A restitution and compensatory fine payment schedule.

(2) Parole release may be deferred up to (ninety) 90 days from the parole release date when

a plan is deficient or unverified in order to obtain verification of a satisfactory plan from the Department of Corrections.

(3) A prisoner requesting an out-of-state parole waives the ninety (90) day limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.

(4) Release to post-prison supervision may not be deferred. The following procedure shall apply:

(a) If the release plan, which is submitted by the Department of Corrections at least 60 days prior to release, is deficient, it will be returned to the Department of Corrections with the Board's recommended modifications.

(b) The Department shall submit a revised plan to the Board not less than ten days prior to the prisoner's release.

(c) If the revised plan is not acceptable to the Board, the Board shall determine the provisions of the final plan prior to the prisoner's release.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 8-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 13-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 2-1990, f. & cert. ef. 4-5-90; (Renumbered sections (1), (2) & (3) from 255-60-006)

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

Waiver of 90-Day Limitation; Deferral for Serious Misconduct

255-60-010 [2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 8-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; Repealed by 2PB 13-1985, f. & ef. 5-31-85]

Psychological or Psychiatric Reports

255-60-012 This rule does not apply to prisoner's whose only crimes are committed on or after November 1, 1989.

(1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.

(2) Pursuant to ORS 144.223, the Board may order a psychiatric/psychological evaluation of any prisoner anytime prior to release.

(3) If the psychiatric/psychological reports indicate that a psychiatric or psychological condition of severe emotional disturbance, such as to constitute a danger to the health or safety of the community, is present, the Board may defer parole release until a specified future date upon finding:

(a) The prisoner has a severe emotional disturbance; and

(b) The condition renders the prisoner a danger to the health or safety of the community.

(c) The Board may not deny any release on parole solely because of a prisoner's severe emotional disturbance.

(4) The majority of the Board may defer a

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 65 — BOARD OF PAROLE**

DIVISION 65

**RESTITUTION, COMPENSATORY FINES,
AND SUPERVISION FEES**

**When Restitution is Ordered Upon Release:
Establishing a Payment Schedule; Limitations**

255-65-005 (1) When a person has been sentenced pursuant to ORS 137.106 to pay restitution for a crime committed after October 4, 1977, and any portion of that payment is deferred until after release from imprisonment, the Board shall establish restitution as a condition of a parole or post-prison supervision. Restitution must be for a specific amount to a specific party and must be noted as restitution in the court order.

(2) When a person had been sentenced pursuant to ORS 137.101 to pay a compensatory fine for a crime committed after November 1, 1981, and any portion of that payment is deferred until after release from imprisonment, the Board shall establish a compensatory fine as a condition of parole or post-prison supervision. The compensatory fine must be for a specific amount, and must be noted as a compensatory fine in the court order.

(3) When a person has been sentenced pursuant to ORS 161.665 to pay attorney fees and any portion of that payment is deferred until after release from imprisonment, the Board may establish payment of attorney fees as a condition of parole or post-prison supervision. The attorney fees must be for a specific amount and must be noted as attorney fees in the court order.

(4) In establishing and supervising a schedule for the resumption of payments, the Board shall consider:

(a) The prisoner's financial resources, including salary, savings, and liquid assets not including place of residence, or those tools or vehicles essential to personal livelihood.

(b) The burden that it will impose in light of the person's overall obligations (e.g., family and necessary living expenses);

(c) Ability to pay in installment or other conditions to be set by the Board; and

(d) The rehabilitative affect of the payment and the method of payment.

(4) Normal payments shall range up to twenty (20) percent of a person's take-home salary without voluntary payroll deductions, unless significant savings or liquid assets not including place of residence or those tools or vehicle essential to personal livelihood permit larger amounts.

(5) The Board shall provide to the sentencing court a copy of the schedule of payments and any modifications.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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

Sentence Including Restitution as Mitigation

255-65-010 [2PB 1-1979, f. & ef. 2-1-79;
2PB 14-1985, f. & ef. 5-31-85;
Repealed by PAR 6-1988,
f. & cert. ef. 5-19-88]

**Supervision of Payments: Conditions; Default;
Effect on Discharge**

255-65-015 (1) Payments of restitution, compensatory fines, or attorney fees shall be made to the clerk of the court of the county of sentencing.

(2) The method and manner of payment shall be established by the individual's supervising officer and approved by the Board.

(3) When an offender defaults on any scheduled payment, the supervising officer shall notify the Board. The default may be grounds for revocation of parole or post-prison supervision unless the offender shows:

(a) The default was not due to an intentional refusal to make the payment; or

(b) The default occurred despite a good faith effort to make the payment.

(4) If total payment of restitution or compensatory fines has not been made by the completion of the designated minimum period of supervision, the offender shall be continued on parole until completion of payment or the expiration of his/her sentence, whichever occurs first.

(5) If total payment of attorney fees has not been made by the completion of the designated minimum period of supervision, the offender may be continued on parole until completion of payment or the expiration of his/her sentence, whichever occurs first.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 6-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 14-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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**Establishment of Supervision Fees; Criteria;
Disbursement of Fees**

255-65-020 (1) When a person is placed on parole or post-prison supervision, subject to supervision by either the Department of Corrections or a community corrections program established under ORS 423.500 to 423.560, the person shall be required to pay a monthly fee to offset the costs of supervising parole.

(2) The fee may range between ten dollars (\$10) and twenty dollars (\$20) a month, unless a greater fee is recommended by the Department of Corrections and approved by the Board using the same criteria set forth in rule 255-65-005(2). In no case shall the fee be less than ten dollars (\$10) per month.

(3) The fee established pursuant to section (1) of this rule shall be a condition of parole or post-prison supervision and intentional and willful failure to pay the fee shall be grounds for

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 70 — BOARD OF PAROLE**

DIVISION 70

**CONDITIONS OF PAROLE
AND POST-PRISON
SUPERVISION**

Conditions Not Limited by Exhibit J

255-70-001 (1) Conditions of parole may be imposed by the Board pursuant to OAR 255-70-015.

(2) Conditions of post-prison supervision may be approved by the Board pursuant to OAR 253-11-001.

(3) Conditions of parole and post-prison supervision are not limited to those shown in **Exhibit J**.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 15-1985, f. & ef. 5-31-85; 2PB 1-1986(Temp), f. & ef. 11-3-86; PAR 2-1987, f. & ef. 4-1-87; PAR 5-1988(Temp), f. & cert. ef. 4-15-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-1-88; PAR 17-1988, f. & cert. ef. 10-18-88; PAR 2-1990, f. & cert. ef. 4-5-90

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

Offender to Return to County Where Resided at Time of Crime

255-70-003 (1) Unless the Board waives the condition, the Board shall order as a condition of parole or post-prison supervision that an offender reside for the first six months in the county where the offender resided on the date of the last arrest for a crime resulting in imprisonment.

(2)(a) The county of residency may be established by obtaining the last address of record at the time of the offense from:

(A) An Oregon driver's license, regardless of its validity;

(B) The Department of Revenue;

(C) The Department of State Police, Bureau of Criminal Identification; or

(D) The Department of Human Resources.

(b) If the county of residency cannot be established, the offender shall be considered to have resided in the county where the crime was committed.

(3) Upon motion of the Board, an inmate, a victim or a district attorney, the Board may waive the residency requirement after making a finding that one of the following conditions has been met:

(a) The inmate provides proof of a job with no set ending date in a county other than the established county of residence;

(b) The inmate poses a significant danger to the victim;

(c) The victim or victim's family poses a significant danger to the inmate residing in the county of residence.

(d) The inmate has a spouse or biological or adoptive family residing in other than the county of residence who will be materially significant in

aiding in the rehabilitation of the offender and in the success of the parole or post-prison supervision period;

(e) The inmate is required as a condition of parole or post-prison supervision to participate in a treatment program which is not available in or located in the county of residence;

(f) The inmate desires to be released to another state or there is a detainer from another state;

(g) Other good cause.

Stat. Auth.: ORS Ch. 144

Hist.: PAR 4-1989, f. & cert. ef. 11-1-89

Parolee Placement in Community Corrections Centers: Standards; Limitations

255-70-005 [2PB 1-1979, f. & ef. 2-1-79;

Repealed by 2PB 15-1985,
f. & ef. 5-31-85]

Guidelines on General Condition Relating to "Best Interest" Return

255-70-010 [2PB 1-1979, f. & ef. 2-1-79;

2PB 15-1985, f. & ef. 5-31-85;

2PB 1-1986(Temp), f. & ef. 11-3-86;

PAR 2-1987, f. & ef. 4-1-87;

Repealed by PAR 6-1988,

f. & cert. ef. 5-19-88]

Establishing Conditions

255-70-015 (1) The Board may order an exit interview prior to the prisoner's release date to review the prisoner's case and set or approve conditions. See Division 60 for exit interview procedures.

(2) If the Board decides to waive an exit interview, it shall specify the condition(s) of parole to be added to the parole order at the prison term hearing.

(3) If the Board decides to waive an exit interview, it shall specify, in an order given to the offender upon release from incarceration, the condition(s) of post-prison supervision. The decision may be made by administrative file pass.

(4) Once the conditions have been established, the conditions may be altered according to the following procedures:

(a) By administrative file pass, if the alteration is before the prisoner's release on parole or post-prison supervision or if a condition is deleted after release; and

(b) At a cite to show cause hearing, if the alteration is after release and the offender does not consent to the addition of conditions pursuant to **Exhibit P**.

(5) A cite to show cause hearing under section (1) of this rule shall be conducted pursuant to the rules governing parole revocation hearings in Division 75.

(6) When a parole officer or supervisory authority would like the Board to add conditions to the order, before the prisoner is released on parole or post-prison supervision, the request must be submitted in writing or by teletype to the Board at least two weeks prior to the release date.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 70 — BOARD OF PAROLE**

**EXHIBIT J
(255-70-001)**

GENERAL/SPECIAL PAROLE CONDITIONS

Parole is ordered subject to all listed General Conditions and the designated Special Conditions. Parole may be revoked for violation of any of these conditions.

GENERAL CONDITIONS:

1. Parolee will abide by the direction and counsel of the Department of Corrections and its representatives, and answer truthfully all reasonable inquiries of the Board of Parole or the parole officer.
2. Parolee will not change residence without first securing the permission of the parole officer.
3. Upon release parolee will proceed at once to the place of residence and report arrival, within 24 hours to the parole office listed below, or according to instructions at time of release.
4. Parolee will find and maintain gainful employment, approved schooling, or other approved programming.
5. If residence is within the State of Oregon, parolee will not leave the state without first securing permission in writing from the parole officer.
6. If residence is outside the State of Oregon, parolee will not re-enter the State of Oregon without permission in writing from the Director, Department of Corrections.
7. Parolee will make a written and truthful report on the last day of each and every month to the Director, Department of Corrections, on forms which will be furnished, giving information required therein.
8. Parolee is not to own, possess, or be in control of any weapon.
9. Parolee will obey all municipal, county, state, and federal laws.
10. Parolee is to pay a monthly parole supervision fee to the agency administering parole (ORS 423.570, OAR 255-65-020).
11. Parole must continue to be in the best interest of parolee and society.

SPECIAL CONDITIONS:

1. Parolee is to submit person, residence, vehicle and property to search by a parole officer having reasonable grounds to believe such search will disclose evidence of parole violation.
2. Parolee is to become involved in a drug surveillance program.
3. Parolee is to enter and complete or be successfully discharged from a drug treatment program.
4. Parolee is to enter and complete or be successfully discharged from a mental health treatment program.
- 5A. Parolee is not to use intoxicating beverages.
- 5B. Parolee is not to use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.
- 5C. Parolee is to undertake and maintain an antabuse program, if medically approved. If so approved, antabuse will be implemented prior to release.
- 5D. Parolee is to undertake and complete or be successfully discharged from an alcohol treatment program.
6. Parolee is not to have a checking account.
7. Parolee is to pay court ordered restitution to the clerk of the court of the county of sentencing who will forward the payment to the victim of the crime (ORS 137.106, OAR 255-65-005).
8. Parolee is to have no contact with minors (male/female) and not to frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
9. Parolee is to pay a court ordered compensatory fine to the clerk of the court of the county of sentencing (ORS 137.101, OAR 255-65-005).
10. Other: Special conditions may be imposed that are not listed above when the Board of Parole determines that such conditions are required.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 75 — BOARD OF PAROLE**

DIVISION 75

**PROCEDURES FOR
REVOCATION OF PAROLE OR
POST-PRISON SUPERVISION**

Definitions

255-75-001 [2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; Repealed by PAR 6-1988, f. & cert. ef. 5-19-88]

Suspension of Parole or Post-Prison Supervision; Citation

255-75-002 When the Board is informed of reasonable grounds to believe that a person has violated the conditions of parole or post-prison supervision, or that parole is no longer in the best interests of the parolee or the community, and that the revocation of parole or, in the case of parole only, an extension of supervision may be justified, the Board may:

(1) Suspend parole or post-prison supervision and order the parolee/offender arrested and detained pending a revocation hearing; or

(2) Issue a citation to show cause why parole or post-prison supervision should not be revoked without first suspending parole or post-prison supervision term or ordering detention. The citation may be issued by the Board or the Board may expressly authorize its designated representative to issue a citation.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Criteria For Allowing Parolee/Offender to Remain in Community Pending Hearing

255-75-003 In determining whether to allow a parolee/offender to remain in the community pending the revocation hearing, the Board may consider:

(1) The seriousness of the allegations and the risk to the parolee/offender or the community;

(2) The likelihood of the parolee/offender absconding or failing to appear at the hearing;

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

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

(5) Any recommendation by the parole and post-prison supervision officer.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Guidelines for "Best Interest" Return

255-75-004 Revocation of parole or post-prison supervision when it is not "in my best interest or in the best interest of society" shall refer to the following situations:

(1) The parolee/offender is suffering from an emotional or psychological disturbance which makes the parolee/offender dangerous to self or others if left in the community. The emotional or psychological disturbance may be indicated by, but not limited to threatening behavior in the form of:

(a) Showing a present capacity to carry out any statements or threat of violence against the parolee/offender or the community; or

(b) The substantial duplication of circumstances and conduct which led to the initial incarceration;

(2) The parolee's/offender's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program, or other treatment program; or

(3) Upon release on parole or post-prison supervision an existing probation is revoked, resulting in the prisoner's return to custody of the Department of Corrections for criminal activity which did not occur while on parole or post-prison supervision; or

(4) The parolee/offender receives a new conviction or new commitment to the custody of the Department of Corrections for criminal activity which did not occur while on parole or post-prison supervision.

Stat. Auth: ORS Ch. 144

Hist.: PAR 1-1988(Temp), f. 3-11-1988, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Hearing Requirement: Procedure

255-75-005 (1) Before the Board can revoke parole, or post-prison supervision, a revocation hearing shall be conducted.

(2) Except in the cases set forth in OAR 255-75-015, the hearing shall be held within a reasonable time after the Board is notified of the alleged violations and reasonably near the place of the alleged violations or the place of confinement.

(3) Before a Hearings Officer can hold an out of custody hearing, the parole and post-prison supervision officer responsible for supervising the parolee/offender must obtain a citation to appear from the Board.

(4) For an in custody revocation hearing, the parole and post-prison supervision officer must request a non bailable suspend and detain warrant from the Board.

(5) A citation to appear or a suspend and detain warrant requires three affirmative votes by the Board.

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Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Waiver of Hearing

255-75-026 (1) In all cases, the parolee/offender may waive the right to a hearing by signing a Notice of Rights form.

(2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that there has been a violation of the conditions in whole or in part.

(3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active community supervision, the waiver of the hearing indicates acceptance of the modifications.

(4) If the parolee/offender waives the right to a hearing, the parolee/offender may offer a written or verbal statement pertaining to the violation.

(5) The written waiver of the right to a hearing must be submitted to the Board of Parole and Post-Prison Supervision's designated representative within five (5) days after the parolee/offender has waived the hearing.

(6) Any statement made to the designated representative at the time of waiver must be tape recorded.

(7) If parolee/offender waives the right to a hearing, the Hearings Officer will submit to the Board the following:

- (a) Notice of Rights form;
- (b) Any written parolee/offender statements and/or a summary of oral statements;
- (c) The Hearing Report Summary; and
- (d) Any supporting information.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 10-1988(Temp), f. 7-14-88, cert. ef. 7-12-88; PAR 15-1988, f. & cert. ef. 9-20-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-898

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

Board Rejection of Waiver

255-75-030 If the Board is not satisfied that the waiver was made knowingly and intelligently or if it believes more information is necessary before making its decision, it may order a new hearing.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88

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

Hearings Process

255-75-031 (1) The parole and post-prison supervision officer will present information at the hearing and arrange for the presence of witnesses for the state and present evidence, unless the hearing is waived.

(2) The Hearings Officer will make a tape recording of the hearing.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Representation/Determination of Ability to Pay Attorney Fees

255-75-035 (1) In all cases, the parolee/offender is entitled to representation by an attorney at the parolee's/offender's expense.

(2) If the parolee/offender is deemed indigent, and unable to pay for an attorney, the parolee/offender may request representation by a Board appointed attorney if the parolee/offender makes a timely and colorable claim that:

(a) The parolee/offender has not committed the alleged violation;

(b) There are substantial or complex mitigating circumstances which make revocation inappropriate even if violation is admitted or a matter of record; or

(c) The parolee/offender appears incapable of representing himself/herself.

(3) If a Board appointed attorney is requested by the parolee/offender, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. Where payment is approved, such payment shall not exceed \$30 per hour and \$200 per case. Billing must be received within 90 days.

(4) In those instances where by the Hearings Officer refuses to appoint an attorney, the grounds for refusal shall be stated in the record.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 10-1988(Temp), f. 7-14-88, cert. ef. 7-12-88; PAR 15-1988, f. & cert. ef. 9-20-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

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(4) The Hearings Officer may classify documents or physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.

(5) Evidence received without disclosing the identity of the witness shall be made a sealed part of the record.

(6) When a witness is unavailable, the statements may be received in the form of documentary evidence when the Hearings Officer determines at an in-camera hearing that good cause for non-disclosure exists and supporting evidence establishes the reliability of the absent witness' statement.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Postponement

255-75-046 (1) A hearing may be postponed by the Hearings Officer for good cause and for a reasonable period of time.

(2) The criteria for "Good cause" includes, but is not limited to:

- (a) The preparation of defense;
- (b) Illness or unavailability of the parolee/offender or other persons;
- (c) Gathering of additional evidence; or
- (d) Avoiding interference with an ongoing police investigation or pending prosecution.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

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

255-75-050 [2PB 1-1979, f. & ef. 2-1-79;
Suspended by 2PB 1-1984(Temp),
f. & ef. 11-19-84;
Repealed by 2PB 1-1985,
f. & ef. 2-28-85]

Reopening Hearings for New Information: Criteria; Procedure

255-75-055 (1) After the completion of a revocation hearing and before a final decision, the Board may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.

(2) The parolee/offender shall be given notice of the decision to reopen the hearing and the new information to be considered. The hearing shall conform to the procedures of this Division.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Hearings Record

255-75-056 (1) The hearings record shall include:

- (a) A Hearings Report Summary; including tape of hearing;
- (b) A written statement of alleged violations;
- (c) Supporting materials;
- (d) A Notice of Rights;
- (e) The Order of parole or Post-Prison Supervision.

(2) The tape recording used in subsection (1)(a) of this rule shall be retained for two (2) years.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Record of Parole Revocation Hearing

255-75-060 [2PB 1-1979, f. & ef. 2-1-79;
Suspended by 2PB 1-1984(Temp),
f. & ef. 11-19-84;
Repealed by 2PB 1-1985,
f. & ef. 2-28-85]

Ten-Day Waiting Period for Parolee's/Offender's Evidence and Exceptions

255-75-065 (1) Within a reasonable time after the hearing, the Hearings Officer's report shall be provided to the parolee/offender.

(2) Unless the right to respond is waived, the parolee/offender shall have 10 days from the date the report is mailed to the parolee/offender to submit evidence and make written exceptions to the report for the Board's consideration.

(3) If the right to respond is waived, the waiver shall be included in the Hearings Officer's report to the Board.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 1-1988(Temp), f. & cert. ef. 4-19-89; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

[ED. NOTE.: The text of Temporary Rules is not printed in

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incarceration of up to 180 days unless mitigation is found.

(3) Parolees/Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.

(4) Parolees/Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.

(5) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest for the violation which resulted in the revocation of parole or post-prison supervision.

(6) Department of Corrections special programs, including the Parole Violators Project, are not subject to the provision of this rule.

Stat. Auth.: ORS Ch. 144
Hist.: PAR 1-1989(Temp), f. & cert. ef. 4-19-89; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89; PAR 4-1989, f. & cert. ef. 11-1-89

**Continuance Based on Time Served:
Necessary Findings by Board**

255-75-080 If the Board finds that a parolee/offender has committed a violation of conditions which is sufficiently serious to require a revocation hearing and the time the parolee/offender has spent in custody pending final action on the revocation hearing is an adequate punishment for the violation, the Board may continue parole or post-prison supervision.

Stat. Auth.: ORS Ch. 144
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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

Authority of Revocation Panel to Set New Parole Release Date for Parole Violators

255-75-082 [2PB 7-1981(Temp), f. & ef. 11-4-81 thru 5-2-82; Suspended by 2PB 1-1984(Temp), f. & ef. 11-19-84; Repealed by 2PB 1-1985, f. & ef. 2-28-85]

Parole Violators With No New Commitment; Action Required

255-75-085 (1) Parole violators returned with no new prison commitment shall receive a future disposition hearing within 120 days of the date of return to Department of Corrections custody.

(2) The hearing shall follow the procedures of a prison term hearing as provided in Division 30 of these rules.

(3) At the future disposition hearing, the Board may:

(a) Set a new parole release date according to the guidelines in rule 255-75-090; or

(b) Deny further parole consideration, pursuant to ORS 144.390; and

(c) Return all or part of the forfeited statutory good time.

Stat. Auth.: ORS Ch. 144
Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; Suspended by PAR 1-1989(Temp), f. & cert. ef. 4-19-89

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

Guidelines for Reparole

255-75-090 [2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; Suspended by PAR 1-1989(Temp), f. & cert. ef. 4-19-89; Repealed by PAR 4-1989, f. & cert. ef. 11-1-89]

**Variation From Guidelines For Aggravation/
Mitigation Permitted**

255-75-095 [2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-1-88; Suspended by PAR 1-1989(Temp), f. & cert. ef. 4-19-89; Repealed by PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89]

Denial of Rerelease Consideration

255-75-096 (1) Upon a finding of aggravation pursuant to **Exhibit E** or **Exhibit H**, the Board may deny rerelease on parole and require the parole violator to serve to the statutory good time date or, in the case of aggravated murder, for life. This action requires the affirmative vote of at least four voting members.

(2) Denial of rerelease on parole requires a future disposition hearing.

(3) In cases where setting a parole violator within the guidelines set forth in rule 255-75-079 would require the parole violator to serve to the end of the sentence, four votes are not required.

Stat. Auth.: ORS Ch. 144
Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, cert. ef. 3-14-88; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 1-1989(Temp), f. & cert. ef. 4-19-89; PAR 3-1989, f. 10-13-89, cert. ef. 10-16-89

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Time For Future Disposition Hearing

255-75-097 When a future disposition hearing is held pursuant to OAR 255-75-072(4)(c), 255-75-

EXHIBIT H
(255-75-095)

AGGRAVATION/MITIGATION IN PAROLE VIOLATION CASES

AGGRAVATION

Prior parole revocation.

Prior Board reprimand, revocation hearing, or like difficulty on present parole.

Less than three (3) months to first difficulty.

Repetition of type conduct associated with commitment offense or past conditions (return to drug or alcohol abuse, assaultiveness, involvement in same type of criminal activity).

MITIGATION

No evidence of new criminal activity.

No prior parole difficulty.

More than nine (9) months to first difficulty.

Efforts to deal with problems associated with past criminal conduct.

Evidence of reduced responsibility or lack of mental capacity.

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EXHIBIT K
(255-75-070)

VOTING REQUIREMENTS FOR PAROLE REVOCATION CASES

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

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

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 80 — BOARD OF PAROLE**

DIVISION 80

ADMINISTRATIVE APPEAL

Procedure for Requesting a Review

255-80-005 (1) A prisoner may request an administrative review by sending **Exhibit O** to the Board concisely explaining how his/her case fits the criteria for review defined in rule 255-80-010.

(2) Requests for administrative review must be made within forty-five (45) days after the Board's final action on the reviewed issue.

(3) A waiver of the 45 day deadline may be granted only if relevant new information is submitted which was particularly difficult to obtain.

(4) An administrative review may be initiated by the Board or its without regard to the 45 day deadline.

(5) If the Board or its designee determines that the request is consistent with the criteria as defined in rule 255-80-010, and meets the deadline requirements, the matter will be resolved by the procedures outlined in rule 255-80-012.

(6) When the appeal is denied, the chairperson or its designee shall inform the prisoner in writing of the specific reasons for denial and the prior decision remains in effect.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 1-979, f. & ef. 2-1-79; 2PB 11-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 17-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 18-1988, f. & cert. ef. 12-6-88; PAR 4-1989, f. & cert. ef. 11-1-89

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

Criteria for Granting an Administrative Review

255-80-010 The criteria for granting a review are:

(1) The Board action is not supported by the written findings, or the written findings are inaccurate; or

(2) Pertinent information was available at the time of the hearing which, through no fault of the prisoner, was not considered; or

(3) Pertinent information was not available at the time of the hearing, e.g. information concerning convictions from other jurisdictions; or

(4) The action of the Board is inconsistent with its rules or policies or is contrary to law; or

(5) The matters raised on review may have an effect on the original decision; or

(6) There is a change in the prisoner's sentence; or
(7) There is a change in the Board's rules or the statutes which would substantively affect the prisoner, e.g., change his/her prison term, parole status, or parole conditions.

Stat. Auth: ORS Ch. 144
Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 18-1988, f. & cert. ef. 12-6-88

Administrative Review Procedure

255-80-012 (1) If the Board or its designee determines that the request for review is consistent with the criteria in rule 255-80-010, the case may be opened for review.

(2) The review may be conducted by the following methods:

(a) Administrative file pass, with the number of concurring votes required by rule 255-30-015; or

(b) Other administrative action by the Board or its designee, i.e., to correct errors in the history risk score, crime category, credit for time served, inoperative time or adjusted commitment dates; or

(c) Administrative hearing, in cases where review would cause an adverse result for the prisoner.

(3) If inmate waives the right to adequate notice and receipt of the Board Review Packet, the administrative review hearing shall be conducted.

(4) The prisoner shall be notified in writing of the Board decision and findings.

Stat. Auth: ORS Ch. 144
Hist.: PAR 18-1988, f. & cert. ef. 12-6-88

Administrative Review Hearing Packet

255-80-015 The Administrative Review Hearing Packet shall contain:

- (1) Instruction face sheet;
- (2) Board Action Form granting administrative review;
- (3) All information attached to the Board Action Form granting review;
- (4) Administrative review request;
- (5) All Board Action Forms since the prison term hearing;
- (6) Psychological evaluations (last 6 months);
- (7) Correspondence;
- (8) Field parole analysis report or comparable report;
- (9) Court orders;
- (10) Inmates' Rights and Board of Parole and Post-Prison Supervision Procedures

Stat. Auth: ORS Ch. 144
Hist.: PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-1-88; PAR 18-1988, f. & cert. ef. 12-6-88; PAR 4-1989, f. & cert. ef. 11-1-89

**OREGON ADMINISTRATIVE RULES
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**EXHIBIT O
(255-80-015)**

ADMINISTRATIVE REVIEW REQUEST FORM

You may request an administrative review of the Parole Board action taken in your case (final order). Your request must meet at least one of the criteria listed below.

- (1) The Board action is not supported by the findings, or the written findings are inaccurate; or
- (2) Pertinent information was available at the time of the original hearing which, through no fault of the prisoner, was not considered; or
- (3) The action of the Board is inconsistent with its rules or policies or is contrary to law; and
- (4) The matters raised on appeal may have an effect on the original decision.

Requests must be specific, they should explain:

- (1) How the written findings are in error; or
- (2) What information was available, and why it was not considered (i.e., documentation of vacated convictions, resentencing, etc.); or
- (3) How the Board's action was contrary to the guideline rules (matrix system) or law; and
- (4) What the effect may be on the original decision.

Requests will be most effective if short and to the Point.

Requests for an administrative review must be made within 45 days after final action by the Board, otherwise you will have waived your right to an administrative review. You may request a waiver of the 45 day deadline if you submit your request after the deadline.

REQUEST: Applicant's name _____ Inst. # _____
SID# _____ requests administrative review of the Parole Board action taken on the final decision was _____
State why your request meets the criteria above _____

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 90 — BOARD OF PAROLE**

DIVISION 90

**PAROLE SUPERVISION AND DISCHARGE
FOR INMATES WITH CRIMES PRIOR
TO DECEMBER 4, 1986**

Definitions

255-90-001 [2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; Repealed by 2PB 18-1985, f. & ef. 5-31-85]

Establishing the Period of Parole Supervision; Effect of Restitution Obligation; Effect of Ballot Measure 10

255-90-002 (1) The Board shall establish a period of active supervised parole as shown in Exhibit I. The Board may order an extended supervision period if it finds that such an extension is appropriate.

(2) Notwithstanding section (1) of this rule, active supervision shall continue until restitution or compensatory fines are paid.

(3) Discharge for inmates who committed crimes on or after December 4, 1986 shall be governed by Division 92 of the Board's rules.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-2-88; PAR 17-1988, f. & cert. ef. 10-18-88; PAR 2-1990, f. & cert. ef. 4-5-90

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

Period of Time to Serve on Supervised Parole

255-90-003 (1) The guidelines set forth in Exhibit I shall govern the period of supervised parole. The period of supervision may be set by administrative file pass or at any hearing, personal review, or postponement action and shall be written on the Order of Parole.

(2) Before discharge, the Board must find that the parolee's final release is not incompatible with the parolee's welfare and that of society.

(3) Final release may be found to be compatible with the welfare of society when:

(a) The court vacates or alters a sentence so that it is discharged;

(b) The sentence expires;

(c) The Board loses the authority to revoke parole; or

(d) The parolee dies.

(4) During the pendency of any parole violation proceeding, the running of the parole period is stayed and the Board shall retain jurisdiction over the parolee until the proceedings are resolved.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 4-1989, f. & cert. ef. 11-1-89

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

Procedure: Approving or Denying Discharge

255-90-005 When discharge is granted by the Board prior to the maximum expiration date of the paroled prisoner's sentence, the discharge shall be effective on the date the chair or chair's designee signs the certificate of discharge.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85; PAR 18-1988, f. & cert. ef. 12-6-88

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

Extension of Period of Supervision; Procedure; Approving or Denying Discharge; Further Proceedings

255-90-010 (1) Prior to the expiration of the parolee's period of supervision the supervising parole officer shall send to the Board a closing summary. This summary shall include:

(a) An evaluation of the parolee's performance;

(b) The status of the parolee's restitution obligation, if any;

(c) The parolee's employment status; and

(d) The parolee's residence;

(e) Any fines or fees;

(f) Treatment programs; and

(g) Any new criminal activity.

(2) The summary shall recommend one of two courses;

(a) That the parolee be discharged and a certificate of discharge be issued; or

(b) That the discharge not be granted with supporting reasons for this action in the recommendation;

(3) When discharge is not granted, a parole revocation hearing shall be conducted to determine if parole should be revoked or if the parole period should be extended.

(4) The Board shall notify the parolee in writing of the extension of the parole supervision period setting forth the reasons for the extension. The date of extension shall be from the date of the Board's review.

(5) When discharge is granted, the Board shall notify the parolee in writing that the parolee has been discharged.

(6) Notwithstanding section (1) to (5) of this rule, the supervising parole officer may submit a written recommendation to the Board for early discharge at any time after six months of supervised parole, providing that fees and restitution are paid in full.

Stat. Auth.: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 2-1980, f. & ef. 5-20-80; 2PB 1-1981, f. 1-20-81, ef. 2-15-81; 2PB 5-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 18-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 75 — BOARD OF PAROLE

EXHIBIT I
(255-90-002)

TIME TO BE SERVED ON PAROLE ON CRIMES
OCCURRING ON OR BEFORE 12-3-86

OFFENSE SEVERITY RATING	CRIMINAL 11-9 EXCELLENT	HISTORY/RISK 8-6 Good	ASSESSMENT 5-3 Fair	SCORE 2-0 Poor
1	6 mos.	6 mos.	6 mos.	6 mos.
2	6 mos.	6 mos.	6 mos.	6 mos.
3	6 mos.	6 mos.	6 mos.	6 mos.
4	6 mos.	6 mos.	6 mos.	1 year
5	6 mos.	6 mos.	1 year	1 year
6	1 year	1 year	1 year	1 year
7	1 year	1 year	1 year	1 year
8	1 year	1 year	1 year	1 year

The Board may vary the time served on parole on crimes occurring on or before 12/3/86 in cases in which death has occurred or the nature of the offense is of such seriousness that a longer period of supervision is needed than that established by the above guideline.

EXTENSIONS OF PAROLE SUPERVISION PERIOD
IN CASES OF MISCONDUCT OR PAROLE VIOLATION

- (a) In crime categories 1, 2, 3, and 4 extension may be imposed for up to an additional six (6) months supervised parole.
- (b) In crime category 5, 6, 7, and 8 extension may be imposed for up to an additional one (1) year supervised parole.
- (c) After a hearing, extensions may be imposed for up to an additional thirty-six (36) months supervised parole. This is an exception to (a) and (b) above.
- (d) The period of supervision may exceed 6 months due to the nature of the crime.

OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 92 — BOARD OF PAROLE

DIVISION 92

PAROLE SUPERVISION UNDER BM10

Application of Division 92

255-92-005 Division 92 applies to parole supervision for all prisoners who committed crimes on or after December 4, 1986 and prior to November 1, 1989. (See Ballot Measure 10, passed November 4, 1986 and HB2250, 1989.)

Stat. Auth: ORS Ch. 144
Hist.: PAR 10-1987, f. & ef. 12-16-87; PAR 4-1989, f. & cert. ef. 11-1-89

Definitions

255-92-010 [PAR 10-1987, f. & ef. 12-16-87; Repealed by PAR 6-1988, f. & cert. ef. 5-19-88]

Duration of Parole

255-92-015 (1) Parole shall extend the entire term of a prisoner's sentence.

(2) Notwithstanding section (1) of this rule, active supervision on parole may be discontinued after three years, if the Board finds that:

(a) The parolee does not constitute a threat to the parolee or society;

(b) The parolee's behavior has been exemplary; and

(c) Any restitution or compensatory fine owed has been paid.

(3) When active parole supervision is discontinued, the parolee shall be placed on inactive parole. However, this subsection shall not prohibit the Board from reinstating actual parole supervision.

Stat. Auth: ORS Ch. 144
Hist.: PAR 10-1987, f. & ef. 12-16-88; PAR 4-1989, f. & cert. ef. 11-1-89

Period of Active Supervision; Exceptions

255-92-020 (1) The minimum period of active supervision on parole shall be the length of the prisoner's sentence or three years, whichever is shorter.

(2) Notwithstanding section (1) of this rule, a parolee will only be removed from active supervision if the Board finds that the parolee has satisfied the provisions of OAR 255-92-015(2)(a), (b) and (c) or (d).

(3) During parole violation proceedings, the period of active supervision is suspended and the Board shall retain jurisdiction over the parolee until the proceedings are resolved.

(4) The Board may reinstate a parolee on active supervision under the provisions of OAR 255-92-040.

Stat. Auth: ORS Ch. 144
Hist.: PAR 10-1987, f. & ef. 12-16-87; PAR 4-1989, f. & cert. ef. 11-1-89

Parole Summary; Active Supervision Review

255-92-025 (1) Within fifteen (15) days after the

parolee has completed a period of active supervision established by the Board, the supervising officer shall send to the Board a parole summary. The parole summary shall contain:

(a) An evaluation of the parolee's behavior;

(b) An update on the status of the parolee's restitution, compensatory fine, and attorney fee obligations, if any; and

(c) A recommendation that the parolee be removed from active supervision; or

(d) A recommendation that the parolee be continued on active supervision.

(2) If the supervising officer recommends that active supervision be continued, supporting reasons for this recommendation shall be included in the parole summary.

(3) As soon as the parole summary is received by the board, any three (3) Board members will conduct an active supervision review by administrative file pass to examine the parolee's record on active supervision.

Stat. Auth: ORS Ch. 144
Hist.: PAR 10-1987, f. & ef. 12-16-87; PAR 4-1989, f. & cert. ef. 11-1-89

Continued Action Supervision; Procedure

255-92-030 When continued active supervision is recommended by the supervising officer, the Board shall determine at the active supervision review if a continuance is appropriate. If the Board decides that continuing active supervision is appropriate, the Board shall:

(1) Use the guidelines set forth in **Exhibit L** to establish the length of the parolee's next period of active supervision; and

(2) Notify the parolee and the parole officer of its decision, the length of the parolee's next period active supervision, and the reasons for continuing active supervision.

Stat. Auth: ORS Ch. 144
Hist.: PAR 10-1987, f. & ef. 12-16-87; PAR 6-1988, f. & cert. ef. 5-19-88; PAR 8-1988, f. & cert. ef. 7-1-88

Removal From Active Supervision; Procedure

255-92-035 (1) When the Board decides to remove a parolee from active supervision, the Board shall:

(a) Delete any special conditions which the parolee has been required to follow; and

(b) Issue a new parole order certifying inactive status.

(2) A parolee shall be considered to be on inactive parole as of the date the parole order certifying inactive status is signed by the Board.

Stat. Auth: ORS Ch. 144
Hist.: PAR 10-1987, f. & ef. 12-16-87

Bases For Reinstating Active Supervision; Procedure

255-92-040 (1) Active supervision may be reinstated for the following reasons:

(a) Failure to abide by the general conditions of parole; or

(b) Inactive parole is no longer in the best

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 92 — BOARD OF PAROLE**

**EXHIBIT L
(255-92-030)**

**Guidelines for Extending Active Supervision
After the Initial 36 Month Period
of Supervision is Completed
Under Division 92
(shown in months)**

Crime Severity Rating	Criminal History/Risk Assessment Score			
	11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
Category 1	06	06	06	12
Category 2	06	06	12	12
Category 3	06	12	12	18
Category 4	12	12	18	18
Category 5	12	18	18	24
Category 6	18	18	24	24
Category 7	24	24	24	24

These are only guidelines. If three members of the Board vote to go outside the guidelines, the period of active supervision shall be any time period determined by the Board.

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 95 — BOARD OF PAROLE**

DIVISION 95

PRESENTENCE INVESTIGATION

Uniform Presentence Report

255-95-005 (1) The Board, in consultation with the Advisory Commission on Prison Terms and Parole Standards, shall propose to the Department of Corrections a uniform presentence report form.

(2) The proposed presentence reports shall be prepared according to the format outlined in **Exhibit M**.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 16-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

**OREGON ADMINISTRATIVE RULES
CHAPTER 255, DIVISION 95 — BOARD OF PAROLE**

**EXHIBIT M
(255-95-005)**

**DEPARTMENT OF CORRECTIONS
PRESENTENCE INVESTIGATION**

PSI:

DATE:

SID#:

NAME:

AKA:

ADDRESS:

DOB:

DOB #2:

SEX:

RACE:

HEIGHT:

WEIGHT:

HAIR:

EYES:

OTHER NUMBERS:

SCARS-MARKS-TATTOOS

SS NO.:

SS NO2:

FBI NO:

DR LIC:

CUSTODY STATUS:

DETAINERS OR OTHER CHARGES:

CONCERNED AGENCIES:

SUBMITTED BY:

BRANCH:

CURRENT CONVICTIONS

CASE	CNTY	JUDGE	DISTRICT ATTORNEY	DEFENSE COUNSEL	A/R	
ORS	(PARA)	CLS	RISK	RANGE	COURT NO.	DA CASE NO.
NAME:		SID:	PSI:			PAGE:

ef

7-1-90

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JUN 23 3 17 PM '90

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

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on June 25, 1990
(Date)

by the Board of Parole & Post-Prison Supervision
(Department) (Division)

to become effective July 1, 1990
(Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)

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

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: April 15, 1990

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

Adopted: 255-30-024, 255-40-027
(New Total Rules)

Amended: 255-30-023, 255-35-014, 255-35-022, 255-40-005, 255-40-010,
(Existing Rules) 255-40-025, 255-40-028, 255-65-015, 255-65-020, Exhibits
AI and BII (255-35-013 & 30-024)

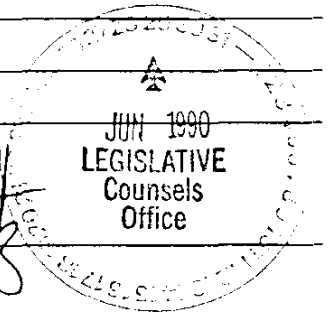
Repealed: Temporary 255-30-024
(Total Rules Only)

as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 29th day of June, 19 90

By: Vern L. Saatz
(Authorized Signer)

Title: Chairman



Statutory Authority: ORS 144.050, 144.140, 144.120, 144.079, 137.551, 144.122, 144.126 or
137.101, 137.106, 423.570, 144.780.

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Prison Term Hearing Waiver Criteria, Probation Revocation Prison Terms, Summing of Consecutive Ranges, Personal Reviews and Prison Term Reductions, Supervision Fees, Crime Categories and History Risk Score.

For Further Information Contact: Cindy Burgess Phone: 378-2334
(Rule Coordinator)

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JUN 29 3 1- PM '90

BEFORE THE OREGON STATE BOARD OF PAROLE AND POST-PRISON SUPERVISION
SECRETARY OF STATE


In the matter of the adoption, amendment and repeal of rules of the Board of Parole & Post-Prison Supervision)
) Statement of Justification
) and Need
)

The Oregon Board of Parole & Post-Prison Supervision is adopting, amending and repealing the above referenced rules in order to correct errors, reorganize rules within divisions, comply with statutory changes regarding prison term hearing waivers, probation revocation prison terms and supervision fees.

Statutory Authority: ORS 144.050, 144.140, 144.120, 144.079, 137.551, 144.122, 144.126, 137.101, 137.106, 423.570, 144.780

Documents Relied Upon: The above statutes, HB2250, OAR Chapter 253.

Date



Vern L. Faatz, Chairman

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:
None

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:
None

Organizational Impact: None

Economic Impact: Legislation passed by the 1989 Legislature required an increase in supervision fees paid to the supervisory authority.

Reference for Data and Methods Used Regarding the Above:

ORS 423.570

Prepared by: Cindy Burgess

Agency: Board of Parole &
Post-Prison Supervision

Title: Rules Coordinator

Date: June 29, 1990

Prisoner Appearance at Board Hearing

255-30-023

(5/19/89; 11/1/89; 2/20/90, temporary; 7/1/90)

- (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.]

Prison Term Hearing Waiver

255-30-024

(2/20/90, temporary; 7/1/90)

- (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.

Initial Parole Release Date for Offenders Whose Probations are Revoked November 1, 1989 or Later (ORS 137.551)
255-35-014 (11/1/89; 7/1/90)

For those offenders whose crimes were committed prior to November 1, 1989 and whose probations are revoked November 1, 1989 or later the Board shall:

- (1) make the findings of fact listed in DAR 255-35-013 pursuant to Divisions 30 and 35 of the Board of Parole and Post-Prison Supervision rules; and
- (2) make findings of fact pursuant to the Sentencing Guidelines Grid and applicable rules found in DAR Chapter 253 and herein incorporated by reference including:
 - (a) crime category (253-04-002, 253-04-003, 253-04-004, 253-04-005, Appendices 2, 3, 4 to DAR 253);
 - (b) criminal history as established by the post-sentence report (253-04-006, 253-04-007, 253-04-008, 253-04-009, 253-04-010, 253-04-011);
 - (c) guideline ranges (Appendix [A] 1 to DAR 253);
 - (d) aggravating or mitigating factors, if any (253-05-001);
 - (e) upholding or overriding minimum sentences;
 - (f) summing of consecutive ranges (DAR [253-12-002 to 003] 253-12-010 to 040); and
- (3) Except when the Board upholds a minimum sentence or denies parole, [S] set the prison term pursuant to:
 - (a) the Sentencing Guidelines Grid (253-10-002, 253-05-004, Appendix 1), if the resultant prison term would be [as long as that prison term is] shorter than it [otherwise] would be under the Board of Parole Matrix Guideline and applicable rules;
 - (b) the Matrix Guideline (255-35-013) if the resultant prison term would be shorter than it would be under the Sentencing Guidelines Grid and applicable rules.
- (4) When the Board upholds a judicially or statutorily set minimum sentence which is longer than the prison term would otherwise be under the Sentencing Guidelines Grid, the prison term shall be the minimum sentence.
- (5) When the sentence is shorter than the applicable prison term, DAR 255-35-025 shall be applied.

effective 7/1/90

Consecutive Sentences: Referring a Case to the Full Board; Going Below the Range; Additional Consecutive Sentences (ORS 144.079, 144.783)

255-35-022 (11/25/81, temporary; 5/19/82; 5/31/85; 6/8/87, temporary; 6/18/87, temporary; 7/21/87, temporary; 12/16/87; 5/19/88; 5/2/90)

- (1) When a panel recommends that a range be less than the sum of the terms under OAR 255-35-021, the case shall be referred to the Full Board.
- (2) The duration of imprisonment for consecutive sentences may be less than the sum of the terms under OAR 255-35-021, if the Board finds by four affirmative votes that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security.
- (3) When additional sentences are imposed for crimes which took place during the period under consideration at a prior prison term hearing and the additional sentences are consecutive to the crimes already considered, the Board shall:
 - (a) conduct a de novo prison term hearing pursuant to the provisions of Division 30 for all the crimes. The unified range for the additional sentences and the sentences which were already considered shall be computed under the provisions of OAR 255-35-021; or
 - (b) conduct a hearing to consider only the additional consecutive sentences using base ranges for the additional crimes. The commencement date for the new prison term under this subsection shall be the parole release date set at the previous prison term hearing.
- (4) The provisions of section (3) of this rule apply only to crimes which occurred on or after July 11, 1987, unless one of the crimes involved is listed in OAR 255-35-021 (4).
- (5) If the Board votes to unsum the consecutive [sentences] ranges at the beginning of the hearing, then a hearing under section (3) of this rule is not required, unless one of the crimes involved is listed in OAR 255-35-021 (4). The new crime will be considered as a principal range.
- (6) If one of the crimes involved is listed in OAR 255-35-021 (4) and is consecutive, then a de novo hearing under subsection (3)(a) of this rule must be conducted.
- (7) If a new crime is consecutive to crimes already considered, and is the most serious offense with the highest crime severity rating and/or longest sentence, a de novo hearing under subsection (3)(a) of this rule must be conducted.
- (8) When additional sentences are imposed for crimes which took place after the period considered at a prior prison term hearing and the additional sentences are consecutive to the crimes already considered, the matrix range for the additional crimes shall be established as if it were a new sentence. If the inmate has not yet been released on parole, the commencement date for the new crimes shall be the parole release date established at the previous prison term hearing.

effective 7/1/90

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

(ORS 144.122, 144.126)

Scheduling of Personal Reviews

255-40-005 (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85;
4/4/88, temporary; 5/19/88; 10/4/88, temporary;
12/6/88; 11/1/89; 7/1/90)

(1) An established prison term as defined in section 255-05-005(35) may be reduced after a personal review.

~~[(1)]~~ (2) Personal reviews may be conducted every three years for those prisoner's whose crimes were committed prior to November 1, 1989. The three year period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration. [The Board will only conduct a personal review hearing after it has received from the institution a recommendation for a reduction in the prison term as described in DAR 255-40-025(1).]

(2) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Corrections.

[(2)] Personal review dates shall be computed from the original adjusted commitment date on an uninterrupted period of incarceration.]

[(3)] The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the criteria listed in DAR 255-40-025(2).]

(4) Prisoners sentenced for aggravated murder or as dangerous offenders, and those parole denied are not subject to personal reviews. Dangerous offenders whose condition is found absent or in remission and whose parole release date has been set may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections.

Procedure for Personal Reviews

255-40-010 (2/1/79; 5/31/85; 11/13/87, temporary; 12/2/86,
temporary; 7/1/90)

(1) Personal review[s] hearings shall be conducted by a panel or [a] the full Board pursuant to DAR 255-30-015.

(2) Personal reviews may be conducted by administrative file pass.

Permanent effective 7/1/90

Purpose

255-40-015

(2/1/79; 5/31/85, repealed)

Reopening Cases: When; What is Necessary

255-40-020

(2/1/79; 5/20/80; 2/15/81; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88, repealed)

Resetting the Parole Release Date to an Earlier Date

255-40-025

(2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 12/6/88; 7/1/90)

[(1) An established prison term as defined in section 255-05-005(30), may be reduced under subsection (2) of this section upon the prisoner's application for a hearing and the receipt of a recommendation from the parent institution. Such a request for a hearing must come to the chairperson of the Board, and upon receipt, a hearing will be scheduled. The Board may, at its discretion, take administrative action to reset the parole release date to an earlier date.]

(1) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review.

(2) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:

[(2) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review, under this section. Cases will be reviewed based on the following criteria:]

(a) the individual merits of each case;

(b) the seriousness of the crime;

(c) the protection of the public

(d) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);

Permanent effective 7/1/90

- (e) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
 - (f) the absence of disciplinary actions resulting from violation of rules within the three year period.
- [(3) Special requests for reduction from the superintendent of the parent institution and the Director of the Department of Corrections may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.]
- [(4) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant ongoing criminal activity.]
- [(5) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any date reduction under consideration.]

Effect of Minimum Terms on Reductions

255-40-026

(4/4/88, temporary: 5/19/88)

- not amended*
- (1) If the prisoner has a judicial minimum sentence which was previously upheld pursuant to ORS 144.10, the minimum must be overturned by four (4) concurring votes of the Board before a reduction can be granted from the previously established minimum set.
 - (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, a reduction cannot be granted below the mandatory minimum sentence and the statutory reduction for goodtime.

Special Request Reductions

255-40-027

(7/1/90)

- (1) Special requests for reduction from the superintendent of the institution and the Director of the Department of Corrections may be scheduled for a hearing with the concurrence of the majority of the Board, or may be considered administratively.

Permanent effective 7/1/90

- (2) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant or going criminal activity.
- (3) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any date reduction under consideration.

Reductions for a Severe Medical Condition

255-40-028 (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90)

- (1) Reductions in prison terms may be considered when any prisoner, regardless of whether his/her crime was committed before or after November 1, 1989, is suffering from a severe medical condition. The request for reduction must be accompanied by:
- (a) a report prepared by a medical authority which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) a recommendation from the superintendent of the institution; and
 - (c) a recommendation from the Director of the Department of Corrections.
 - (d) a commutation from the Governor for those sentenced to life in prison or death for aggravated murder or for those sentenced to an unexpired minimum term pursuant to ORS 161.610.
- (2) Should the medical condition be such that a hearing may be threatening to the health and safety of the prisoner or the Board, the reduction shall be granted administratively, with the concurrence of the majority of the Board.

Who May Appear

255-40-030 (2/2/79; 5/31/85, repealed)

Permanent effective 7/1/90

Establishment of Supervision Fees: Criteria; Disbursement of Fees:
255-65-020 (11/3/81, temporary; 5/19/82; 5/31/85;
5/19/88; 11/1/89; 7/1/90)

- (1) When a person is placed on parole or post-prison supervision, subject to supervision by either the Department of Corrections or a community corrections program established under ORS 423.500 to 423.560, the person shall be required to pay a monthly fee to offset the costs of supervising parole.
- (2) The fee [may range between ten dollars (\$10) and twenty dollars (\$20)] shall be twenty-five dollars (\$25) a month, unless a greater fee is recommended by the Department of Corrections and approved by the Board using the same criteria set forth in rule 255-65-005(3). In no case shall the fee be less than ten dollars (\$10) per month.
- (3) The fee established pursuant to subsection (1) of this rule shall be a condition of parole or post-prison supervision and intentional and willful failure to pay the fee [shall] may be grounds for revocation of parole or post-prison supervision or, in the case of parole, extension of the supervision period.
- (4) In cases of financial hardship or when otherwise advisable in the interest of the released person's rehabilitation, the Community Program Director or the Director of the Department of Corrections, whichever is appropriate, may waive the payment of the fee in whole or in part.
- (5) Fees collected shall be transferred to the Department of Corrections or retained by the county as provided by statute.

Supervision of Payments: Conditions ; Default ; Effect on
Discharge

255-65-015

(2/1/79; 11/4/81, temporary; 5/19/82;
5/31/85; 5/19/88; 11/1/89; 7/1/90)

- (1) Payments of restitution, compensatory fines, or attorney fees shall be made to the clerk of the court of the county of sentencing.
- (2) The method and manner of payment shall be established by the individual's supervising officer and approved by the Board.
- [(3)] When an offender defaults on any scheduled payment, the supervising officer shall notify the Board. The default may be grounds for revocation of parole or post-prison supervision unless the offender shows:
 - (a) the default was not due to an intentional refusal to make the payment; or
 - (b) the default occurred despite a good faith effort to make the payment.]
- [(4)](3) If total payment of restitution or compensatory fines has not been made by the completion of the designated minimum period of supervision, the offender shall be continued on parole until completion of payment or the expiration of his/her sentence, whichever occurs first.
- [(5)](4) If total payment of attorney fees has not been made by the completion of the designated minimum period of supervision, the offender may be continued on parole until completion of payment or the expiration of his/her sentence, whichever occurs first.

EXHIBIT A
(ORS 144.120, 144.780, 255-30-035, 255-35-013-014)

CRIME SEVERITY RATINGS

<u>ORS</u>	<u>CRIME</u>	<u>FELONY CLASS</u>	<u>RATING</u>	<u>PERSON</u>
163.535	Abandonment of Child	C	2	<u>Yes</u>
166.085	Abuse of Corpse	C	3	<u>Yes</u>
475.992	Act By Registrant	C	1	<u>No</u>
163.095	Aggravated Murder	U	7,8	<u>Yes</u>
	<u>Conspiracy to Commit Aggravated Murder</u>	A	6	<u>Yes</u>
164.057	Aggravated Theft I	B	4	<u>No</u>
164.325	Arson I	A	6,5	<u>Yes</u>
164.315	Arson II	C	2	<u>Yes</u>
163.185	Assault I	A	6,5	<u>Yes</u>
163.175	Assault II	B	4	<u>Yes</u>
163.165	Assault III	C	3,2	<u>Yes</u>
161.405	Attempt - Receives the crime severity rating one [number] <u>rating</u> below the rating for the lowest subcategory of [for] the completed crime, for example, Attempted Arson I would be a [5] 4 if the completed crime could have been classified in subcategory 1 of Arson I as a 6. <u>An attempt remains a rating of 1 if 1 is the lowest rating for the completed crime.</u>			
163.515	Bigamy	C	1	<u>Yes</u>
162.015	Bribe Giving	B	3	<u>No</u>
162.025	Bribe Receiving	B	3	<u>No</u>
162.275	Bribe Receiving by a Witness	C	2	<u>No</u>
162.265	Bribing a Witness	C	2	<u>No</u>
164.225	Burglary I	A	5,4,3	<u>Yes</u>
164.215	Burglary II	C	3,2,1	<u>No</u>
166.220	Carrying Weapon With Intent to Use	C	2	<u>Yes</u>
163.275	Coercion	C	4,3	<u>Yes</u>
167.017	Compelling Prostitution	B	4	<u>Yes</u>
164.377(2)(3)	Computer Crime/Proprietary Info	C	2,1	<u>No</u>
161.450	Conspiracy - Classified at same [level] <u>rating</u> as conspired crime (except murder or treason). [which are reduced to a felony (e.g., Conspiracy to Commit Burglary I is an A Felony.)]			
803.080	Counterfeit Vehicle Title	C	1	<u>No</u>
475.992(3)	Creation or Delivery of a Counterfeit Substance	A,B,C	5,4,3,1	<u>No</u>
163.005	Criminal Homicide	A	2	<u>Yes</u>
164.365	Criminal Mischief I	C	1	<u>No</u>
163.205	Criminal Mistreatment I	C	2	<u>Yes</u>
163.555	Criminal Nonsupport	C	1	<u>No</u>
165.022	Criminal Possession Forged Instrument I	C	1	<u>No</u>
165.032	Criminal Possession Forgery Device	C	1	<u>No</u>
164.140	Criminal Possession Rented/Leased Property	C	2,1	<u>No</u>

163.145	Criminally Negligent Homicide	C	4,3	<u>Yes</u>
163.257	Custodial Interference I	B	3	<u>Yes</u>
163.245	Custodial Interference II	C	1	<u>Yes</u>
163.673	Dealing in Depictions of Child's Sexual Conduct	B	4	<u>Yes</u>
475.995(1)	Delivery of Controlled Substance to Minor	A	4	<u>Yes</u>
475.995(2)	Delivery of Controlled Substance to Minor	B	3	<u>Yes</u>
475.995(5)	Delivery of Marijuana to Minor	A	4	<u>Yes</u>
475.999	Delivery of Controlled Substance to Student or Minor within 1000 feet of School	A	4	<u>Yes</u>
475.992(2)	Delivery of Marijuana for Payment	B	4,3,1	<u>No</u>
167.365	Dogfighting	C	1	<u>No</u>
811.175;	Driving While			
811.192	Suspended or Revoked	C	1	<u>No</u>
260.402; 260.555; 260.575; 260.615;				
260.645; 260.665(2); 260.655(3);	Election Law			
260.665(2)(d)-(f); 260.715	Offenses	C	1	<u>No</u>
164.885	Endangering Aircraft	C	2	<u>Yes</u>
162.165	Escape I	E	5	<u>Yes</u>
162.155	Escape II	C	2,1	<u>No</u>
162.205	Failure to Appear I	C	3	<u>No</u>
811.705	Failure to Perform Duties of Driver	C	3,2	<u>Yes</u>
822.605	False Swearing Relating to Regulation Vehicle Related Business	C	1	<u>No</u>
166.270	Felon in Possession of Firearm	C	2	<u>Yes</u>
506.991	Fishing Violation	C	1	<u>No</u>
532.140; 532.610;	Forest Products			
532.620; 532.990(2)	Offenses	U	1	<u>No</u>
803.230	Forge/Alter Vehicle Title Regis.	C	1	<u>No</u>
165.013	Forgery I	C	3,2,1	<u>No</u>
59.055; 59.115; 59.127;				
59.135; 59.145; 59.165;	Fraud			
59.730; 59.740; 59.750;	Involving Securities	B	4,3	<u>No</u>
59.760; 59.770; 59.780;				
59.790; 59.800;				
165.055(3b)	Fraudulent Use of Credit Card	C	1	<u>No</u>
811.185	Habitual Traffic Offender (DMVVCO)	C	1	<u>No</u>
166.420	Handgun/ Failure to Keep Register	C	2	<u>Yes</u>
162.325	Hindering Prosecution	C	1	<u>No</u>
163.525	Incest	C	3	<u>Yes</u>
166.165	Intimidation I	C	2	<u>Yes</u>
163.235	Kidnapping I	A	6	<u>Yes</u>
163.225	Kidnapping II	B	4	<u>Yes</u>
163.118	Manslaughter I	A	6	<u>Yes</u>
163.125	Manslaughter II	B	5,4,3	<u>Yes</u>
166.410	Manufacture, Importation, Sale, Gift, Loan or Possession of Firearms	B	4	<u>Yes</u>
471.440	Manufacture of Mash; Operating Distillery Without a License	C	1	<u>No</u>
475.992(1);	Manufacture or Delivery of Controlled Substance	A,B,C	5,4,3,1	<u>No</u>
475.993(2a)	Substance			
166.384	Manufacture of Destructive Device	C	3	<u>Yes</u>
7/1/90	2			Crime Severity Ratings

163.115	Murder	U	7,8	<u>Yes</u>
	<u>Conspiracy to Commit Murder</u>	A	6	<u>Yes</u>
165.065(3b)	Negotiating a Bad Check	C	2,1	<u>No</u>
166.450	Obliteration of ID Marks (Firearm)	C	1	<u>Yes</u>
815.410	Odometer Tampering			
815.430	or False Report	C	1	<u>No</u>
166.660	Paramilitary Activity	C	1	<u>Yes</u>
163.680	Paying for Viewing Child's Sexual Conduct	C	1	<u>Yes</u>
162.065	Perjury	C	2	<u>No</u>
496.992	Poaching	C	2	<u>No</u>
475.992(4)	Possession of a Controlled Substance	B,C	3,2,1	<u>No</u>
166.382	Possession of a Destructive Device	C	3	<u>Yes</u>
165.070	Possession of a Fraudulent Communications Device	C	2,1	<u>No</u>
167.137	Possession of Gambling Records	C	1	<u>No</u>
166.272	Possession of Machine Gun, Short-Barreled Rifle or Shotgun or Silencer	B	3	<u>Yes</u>
819.300	Possession of a Stolen Vehicle	C	1	<u>No</u>
166.275	Possession of Weapon By Inmate of Penal Institution	A	5	<u>Yes</u>
167.127	Promoting Gambling I	C	1	<u>No</u>
167.012	Promoting Prostitution	C	2	<u>Yes</u>
166.720	Racketeering	A	5,4	
163.375	Rape I	A	6,5	<u>Yes</u>
163.365	Rape II	B	4,3	<u>Yes</u>
163.355	Rape III	C	2	<u>Yes</u>
166.015	Riot	C	2	<u>Yes</u>
164.415	Robbery I	A	6,5	<u>Yes</u>
164.405	Robbery II	B	4	<u>Yes</u>
164.395	Robbery III	C	2	<u>Yes</u>
167.062(4)	Sadomasochistic Abuse or Sexual Conduct in Live Show	C	1	<u>Yes</u>
163.425	Sexual Abuse I	C	3	<u>Yes</u>
163.411	Sexual Penetration Foreign Obj. I	A	6,5	<u>Yes</u>
163.408	Sexual Penetration Foreign Obj. II	B	4	<u>Yes</u>
166.429	Shipping, Transporting, Receiving, Selling Furnishing Firearm in Furtherance of a Felony	B	4	<u>Yes</u>
163.405	Sodomy I	A	6,5	<u>Yes</u>
163.395	Sodomy II	B	4	<u>Yes</u>
163.385	Sodomy III	C	2	<u>Yes</u>
161.435	Solicitation - Classified [one level below crime solicited] <u>the same as attempt.</u>			
165.090	Sports Bribe Receiving	C	2	<u>No</u>
165.085	Sports Bribery	C	2	<u>No</u>
162.185	Supplying Contraband	C	4,3,2,1	<u>Yes</u>
167.212	Tampering With Drug Records	C	1	<u>No</u>
162.285	Tampering With a Witness	C	2	<u>Yes</u>
164.085	Theft by Deception	C	2,1	<u>No</u>
164.075	Theft By Extortion	B	4,3	<u>Yes</u>
164.095	Theft By Receiving	C	2	<u>No</u>
164.055	Theft I	C	2,1	<u>No</u>
164.125(4)(c)	Theft of Services	C	2,1	<u>No</u>
164.125(4)(d)	Theft of Services \$10,000+	B	4	<u>No</u>

164.065	Theft, Lost/Mislaid Property	C	1	<u>No</u>
819.310	Trafficking in Stolen Vehicles	C	3	<u>No</u>
163.677	Transporting Child Pornography	B	4	<u>Yes</u>
166.005	Treason	U	7	
	<u>Conspiracy to Commit Treason</u>	A	6	
164.872(2)	Tree Spiking, Inconvenience, Annoyance or Alarm	C	2	<u>Yes</u>
164.872(3)	Tree Spiking, Serious Injury	B	4	<u>Yes</u>
164.135	Unauthorized Use of Vehicle	C	2,1	<u>No</u>
163.670	Using a Child in a Display of Sexually Explicit Conduct	A	6,5	<u>Yes</u>
247.121(2); 247.125;	Voter Registration			
247.340(4); 247.420(2)	Offenses	C	1	<u>No</u>
411.630; 411.640;				
411.675; 411.690;	Welfare/			
411.840	Food Stamp Fraud	C	2,1	<u>No</u>
127.585	Withdrawal of Life-Sustaining Procedures by Altering or Forging a Power of Attorney or by Concealing or Destroying a Revocation	A	3	<u>No</u>

EXHIBIT B - PART II
(ORS 144.120, 144.780, OAR 255-30-035, 255-35-013-014)
Coding Instructions: History/Risk Score

The instructions address the application of the history/risk scoring instrument in most circumstances. Invariably, situations will arise where judgment will have to be exercised. As a general rule, never delete a point when doubt exists, note such doubtful items.

(A) No prior felony convictions as an adult or juvenile:	3
One prior felony conviction:	2
Two or three prior felony conviction:	1
Four or more prior felony conviction:	0

In general, the purpose of this item is to consider previous verified instances of criminal conduct.

1. Adult Convictions. Count as a prior conviction all adult convictions for criminal acts classed as felonies. Count convictions in [a foreign country] another jurisdiction for criminal behavior that would be classed as a felony in Oregon.
2. Juvenile Convictions. Count adjudications transpiring prior to the 16th birthday if incarceration results. Count adjudications for a juvenile who has passed his 16th birthday for offense behaviors that would have been felonies if committed by an adult. Formal probation and wardship are considered to constitute a conviction providing the foregoing criteria are met. Do not count any juvenile charge which results in informal probation.
3. Effective Age. Count as a conviction, a finding by a court that a juvenile who has passed his 16th birthday, who while either on probation or parole for a crime classified as a felony, committed a new felony, even though the probation/parole was continued.
4. Military Convictions. Count prior convictions for behavior which would constitute a felony if committed in Oregon.
5. Convictions Pardoned or Expunged. Count felony offenses which have been pardoned on grounds other than innocence. Do not count convictions or adjudications which were set aside or pardoned on the grounds of innocence. Do not count any convictions which have been expunged pursuant to court order. Do not count offenses which have resulted in a finding of guilty except for insanity.

6. Convictions Reversed or Vacated on Constitutional Grounds. Do not count felony convictions reversed or vacated on constitutional grounds (e.g., that an indigent defendant was deprived of his/her right to counsel). However, it is presumed that a conviction/adjudication is valid unless the evidence is clear that it is not. If a prisoner challenges such conviction, the prisoner should be advised to petition for a reversal of such conviction in the court in which the prisoner was originally tried, and then to provide the board with evidence of such reversal.
7. Uncounseled Convictions. Do not count felony convictions if the documents clearly show that the defendant neither had counsel nor waived counsel for a particular conviction. Count convictions where the offender chooses to represent himself. If an offender challenges counting an offense on the basis that it was uncounseled, consider the circumstances prior to granting the relief. In weighing the evidence, recent convictions and serious convictions increase the burden on the offender for producing criteria to overcome the presumption that the crime was counseled. If the conviction record is not clear and several years have elapsed, the conviction would be more susceptible to challenge that it was uncounseled.
8. Diversion. Do not count convictions resulting in diversion from the judicial process without a specific finding of guilt (e.g., deferred prosecution, probation without plea).
9. Convictions Not Classed as Misdemeanors. Count as a conviction, offenses which were previously felonies but are now only misdemeanors if the offenses occurred at a time when they were sanctioned as felonies. [Count convictions classed as felonies which are sanctioned as misdemeanors.]
10. Present Conviction. Do not count the present offense or offenses as prior convictions.
11. Old Prior Record. Do not count prior felony convictions or commitments under Item A or B, if the offender has maintained a felony conviction free record of ten years in the community immediately prior to the current offense behavior. The ten (10) year period is counted between the date of the last conviction countable under Item A or release from the last commitment countable under Item B (whichever comes last) and the date of commencement of the current offense behavior. If the prisoner was on parole or probation in the community and did not commit any felonies, that is considered conviction free time in the community.

Notwithstanding the above, count any homicide or conviction categorized as a 6 even if it is over ten (10) years old and the offender has been crime free. Note: This does not preclude consideration of earlier behavior (e.g., repetition of particularly serious or assaultive conduct) as an aggravating factor. Similarly, substantial crime free period in the community, not amounting to ten (10) years, may be considered as a mitigating factor.

RECEIVED

JUN 20 9 50 PM '90

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

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on June 18, 1990
(Date)

by the Board of Parole & Post-Prison Supervision
(Department) (Division)

to become effective July 1, 1990
(Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)

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

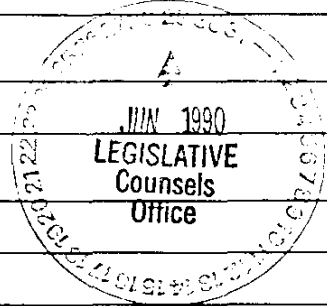
Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: October 1, 1989

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

Adopted:
(New Total Rules) _____

Amended:
(Existing Rules) Exhibit J (OAR-255-70-001-015)

Repealed:
(Total Rules Only) _____



as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 29th day of June, 19 90

By: [Signature]
(Authorized Signer)

Title: Chairman

Statutory Authority: ORS 144.102, 144.270, 144.275, 144.050, 144.140 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Conditions of parole and post-prison supervision.

For Further Information Contact: Cindy Burgess (Rule Coordinator) Phone: 378-2334

RECORDED

BEFORE THE

JUN 21 3 46 PM '99

OREGON STATE BOARD OF PAROLE & POST-PRISON SUPERVISION
SECRETARY OF STATE

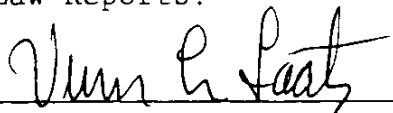
In the matter of the Amendment)
of Exhibit J to the Administrative)
Rules of the Board of Parole and)
Post-Prison Supervision)

STATEMENT OF JUSTIFICATION
AND NEED

The Board of Parole & Post-Prison Supervision is amending the above referenced Exhibit in order to comply with new legislation, to provide greater specificity, to create more stated options for conditions, and to clarify the intent of certain conditions.

- (a) Statutory Authority: ORS 144.102, 144.270, 144.275, 144.050, 144.140
- (b) Need for Exhibit: HB2250 created new provisions relating to conditions of post-prison supervision. The Board also needed to provide greater specificity, more options and to clarify the intent of certain conditions.
- (c) Documents Relied Upon: HB2250, OAR Chapter 253, ORS 144.102, 144.270, 144.275, Federal Parole Conditions, Probation Conditions, Probation & Parole Law Reports.

Date



Vern L. Faatz, Chairman

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:
None

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:
None

Organizational Impact: None

Economic Impact: A change in one of the conditions allows for a condition that the state be reimbursed for the cost of court appointed attorney fees.

Reference for Data and Methods Used Regarding the Above:

1989-90 Budget for Board of Parole & Post-Prison Supervision

Prepared by: Cindy Burgess

Agency: Board of Parole & Post-Prison Supervision

Title: Rules Coordinator

Date: June 29, 1990

EXHIBIT J
(ORS 144.102, 144.270, 144.275)

GENERAL/SPECIAL PAROLE AND POST-PRISON SUPERVISION CONDITIONS

Parole/Post-Prison Supervision is [ordered] subject to all listed General Conditions and the designated Special Conditions. Prior to release the Board may modify the conditions at any time. After parole/post-prison supervision has commenced, conditions may be added upon your signed consent or after opportunity to be heard, orally or in writing.

Parole may be revoked for violation of any of these conditions and you may be returned when parole is not in your best interests or the best interests of society.

The Board may, at its discretion, sanction violations of Post-Prison Supervision Conditions; sanctions may include returning you to the Department of Correction's custody.

As used in this exhibit, the following words have the following meanings: "Offender" means persons released to parole or post-prison supervision. "Parole officer" shall also mean the supervisory authority under the post-prison supervisor system.

GENERAL CONDITIONS

1. [Parolee will] Offender shall abide by the direction and counsel of the Department of Corrections and its representatives, and truthfully answer [truthfully] all reasonable inquiries of the Board of Parole and Post-Prison Supervision or the parole officer.
2. [Parolee will] Offender shall not occupy or change [residence] dwelling place without first securing the permission of the parole officer.
3. Upon release [parolee will] offender shall proceed at once to the [place] county of residence and report [arrival] in person, within 24 hours (or the next business day) to the [parole] office of the supervisory authority listed [below] above, or according to instructions at time of release. If it is impossible to report as directed, report to the nearest supervisory authority within 24 hours.
4. [Parolee will] Offender shall find and maintain [gainful] employment, [approved] schooling, or other [approved] programming approved by the parole officer.
5. If residence is within the State of Oregon, [parolee will] offender shall not leave the state without first securing permission in writing from the parole officer.
6. If residence is outside the State of Oregon, [parolee will] offender shall not re-enter the State of Oregon without [permission in writing from the Director, Department of Corrections] notifying immediately the Interstate Compact Unit in Salem, either directly or through the nearest supervisory authority.

7. [Parolee will] Offender shall make a monthly written and truthful report [on the last day of each and every month to the Director, Department of Corrections, on forms which will be furnished, giving information required therein] as directed by the parole officer.
8. [Parolee is not to] Offender shall not own or possess, or be in control of any weapon (including dangerous animals).
9. [Parolee will] Offender shall obey all municipal, county, state, and federal laws.
10. [Parolee is to] Offender shall pay a monthly [parole] supervision fee to the [agency administering parole] supervisory authority (ORS 423.570, OAR 255-65-020).
11. [Parole must continue to be in the best interest of parolee and society.] Not used as of July 1, 1990.
12. Offender shall reside for at least the first six months of parole or post-prison supervision in the approved county of residency as provided in ORS 144.270(5).

SPECIAL CONDITIONS

1. [Parolee is to] Offender shall submit person, residence, vehicle and property to search by a parole officer having reasonable grounds to believe the search will disclose evidence of [parolee] violation of conditions.
2. [Parolee is to become involved in a drug surveillance program.] Offender shall be subject to breath and/or urine tests at the discretion of the parole officer. A positive test result may be the basis for return to the Department of Corrections custody.
3. [Parolee is to] Offender shall enter and complete or be successfully discharged from [a] an out-patient drug treatment program.
- 3A. Offender shall not illegally use or possess controlled substances.
- 3B. Offender shall enter and complete or be successfully discharged from an in-patient drug treatment program including any required aftercare.
- 3C. Offender shall be evaluated for drug abuse and follow the program recommended and approved by the evaluator and the parole officer, which may include in-patient treatment.
4. [Parolee is to] Offender shall enter and complete or be successfully discharged from [a] mental health treatment program(s).
- 4A. Offender shall be evaluated by a mental health evaluator and follow all treatment recommendations.

- 4B. Offender shall follow a psychiatric or psychotropic medication monitoring program with a physician per the physician's instructions.
- 5A. [Parolee is not to] Offender shall not use intoxicating beverages.
- 5B. [Parolee is not to use intoxicating beverages to excess. The excessive use of intoxicating beverages is understood to mean that the effects disrupt or interfere with my domestic life, employment, or proper community conduct.] Not used as of July 1, 1990.
- 5C. [Parolee is to] Offender shall undertake and maintain an antabuse program, if medically approved. If so approved, antabuse will be implemented prior to release.
- 5D. [Parolee is to] Offender shall enter and complete or be successfully discharged from an out-patient alcohol treatment program.
- 5E. Offender shall enter and complete or be successfully discharged from an in-patient alcohol treatment program, including any required aftercare.
- 5F. Offender shall be evaluated for alcohol abuse and follow the program recommended and approved by the evaluator, which may include antabuse, if medically approved, and/or out-patient or in-patient treatment.
6. [Parolee is not to have a checking account.] Not used as of July 1, 1990.
7. [Parolee is to] Offender shall pay court ordered restitution to the clerk of the court of the county of sentencing [who will forward the payment to the victim of the crime]. (ORS 137.106, OAR 255-65-005).
8. [Parolee is to have no contact with minors (male/female) and not to frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).] Not used as of July 1, 1990, see BA and 8B.
- 8A. Offender shall have no contact with minor females and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
- 8B. Offender shall have no contact with minor males and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades).
- 8C. Offender shall submit to random polygraph tests as part of a sex offender surveillance program. Failure to submit to the tests may result in return to Department of Corrections custody. Specific responses to the tests shall not be the basis for return to Department of Corrections custody.

- 8D. Offender shall enter and complete or be successfully discharged from a recognized and approved sex offender treatment program which may include polygraph and/or plethysmograph testing and a prohibition on possession of printed, photographed or recorded materials that the offender may use for the purpose of deviant sexual arousal.
- 8E. Offender shall register with the supervisory authority as a sex offender. During the five-year period following release on parole or post-prison supervision, the sex offender shall notify, in writing, the nearest supervisory authority office each time s/he changes residence. (ORS 181.517-519)
9. [Parolee is to] Offender shall pay a court ordered compensatory fine to the clerk of the court of the county of sentencing (ORS 137.101, OAR 255-65-005).
10. Other: Special conditions may be imposed that are not listed above when the Board of Parole and Post-Prison Supervision determines that such conditions are necessary.
11. [Parolee is to enter and successfully complete the Parole Violators Project.] Deleted July 1, 1990.
12. Offender shall pay court ordered attorney fees to the clerk of the court of the county of sentencing (ORS 161.645, OAR 255-65-005).
13. Offender shall have no contact with:



Board of Parole

2575 CENTER STREET N.E., SALEM, OREGON 97310 PHONE 378-2334

October 3, 1990

Dorothy Horton
Administrative Rules Supervisor
Public Records Division
Secretary of State
143 State Capitol
Salem, Oregon 97310

Dear Dorothy:

I recently discovered that a clerical error was made in the Board's last rule filing on July 1, 1990 in OAR 255-30-024. Subsection 5 did not get printed and included in the permanent filing. It was included in the Notice of Proposed Rulemaking. Can this error be corrected without going through the entire rulemaking process?

Subsection 5 should read: "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."

Thank you for your assistance.

Sincerely,

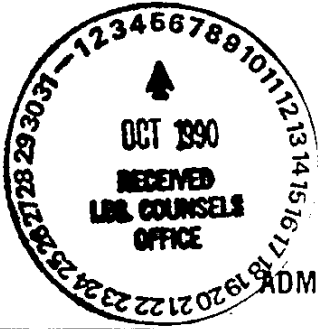
Cindy J. Burgess
Rules Coordinator

Prison Term Hearing Waiver (ORS 144.120(1)(b))
255-30-024 (2/20/90, temporary; 7/1/90)

- (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 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 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.

abk

10-5-90



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

RECEIVED
OCT 5 1990
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on August 6, 1990
(Date)

by the Board of Parole & Post-Prison Supervision
(Department) (Division)

to become effective 10/5/90
(Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)

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

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: April 15, 1990

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

Adopted:
(New Total Rules)

Amended:
(Existing Rules)

255-05-005, 255-30-032, Exhibit E-3

Repeated:
(Total Rules Only)

Exhibit N (255-30-035)

as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 5th day of October, 19 90

By: *Catherine Walker for Vera Falty*
(Authorized Signer)

Title: Chairperson

Statutory Authority: ORS 144.050, 144.140 or

Chapter(s) _____ Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Definitions, Evidence, Mitigating Factors Explanation are amended. Notice of Inmates' Rights and Board of Parole Procedures is repealed.

For Further Information Contact: Cindy Burgess Phone: 373-2334
(Rule Coordinator)

RECEIVED
OCT 5 4 14 PM '90
SECRETARY OF STATE

BEFORE THE
OREGON STATE BOARD OF PAROLE

In the Matter of the Adoption,)
Amendment and Repeal of Rules)
Governing the Board of Parole)
STATEMENT OF JUSTIFICATION)
AND NEED)

The Board of Parole is adopting, amending and repealing the above referenced rules in order to correct, clarify and provide for new procedures.

- (a) Statutory Authority : ORS Chapter 144
- (b) Need for Rules : Definitions needed to be added and changed for greater clarity, preciseness, and constitutionality. The evidence rule needed more explicitness. Mitigating Factors needed more explanation and needed to comply with caselaw. Inmates Rights & Board of Parole Procedures needs to be changed too frequently to be a part of the rulemaking process and is therefore being repealed.
- (c) Documents Relied Upon : ORS 144, Jarvis v. Board of Parole, Calderon-Pacheco v. Board of Parole, letter from Legislative Counsel Committee.

10/5/90

Date

Catherine Miller for Ann Fenty

Chairman, Board of Parole

FISCAL ANALYSIS OF RULE PER ORS 183.335

<u>Effect on Revenue (By Fund):</u>	<u>Current Biennium:</u>	<u>Future Biennium:</u>
none	none	none

<u>Effect on Expenditures (By Fund):</u>	<u>Current Biennium:</u>	<u>Future Biennium:</u>
none	none	none

Organizational Impact:
none

Economic Impact:
none

Reference for Data and Methods Used Regarding the Above:

1989-91 Budget

Prepared by: Cindy Burgess

Agency: Board of Parole &
Post-Prison Supervision

Title: Rules Coordinator

Date: October 5, 1990

DIVISION 5

DEFINITIONS

This rule has been renumbered.

Definitions

255-05-005 (5/19/88; 12/6/88; 11/1/89; 10/5/90)

- (1) "Abscond": Unauthorized absence from parole or post-prison supervision.
- (2) "Active Community Supervision": [An uninterrupted] A period of [at least six months] supervision in the community, requiring regular contact and monitoring by the supervising officer to assure that the conditions of parole or post-prison supervision are being met, that the supervisee has committed no new crimes and to assure repayment of restitution, attorney fees, and compensatory fines, if required.
- (3) "Active Supervision": Supervision requiring regular contact and monitoring by the supervising officer to assure continued compliance with the conditions of parole. (Div.92)

"Active Supervision" shall not include:

- (a) the period of confinement in local, state, or federal correctional facilities during the parole;
 - (b) the period of time between the suspension of parole and the date parole is continued;
 - (c) inactive parole; (Div. 92)
 - (d) involuntary commitment to a state or federal psychiatric facility.
- (4) "Aggravation": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1.
 - (5) "Base Range": The range for each crime category reflected in Exhibit C under the "excellent" column.
 - (6) "Board": Board of Parole and Post-Prison Supervision.
 - (7) "Board Review Packet": The information the Board shall consider at the inmate's hearing. The contents of the packet shall be listed in each of the Divisions which establishes a hearing.
 - (8) "Compensatory Fines": A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). Compensatory fines may be awarded in addition to restitution.
 - (9) "Correctional Facility": Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order.

"Correctional Facility" includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect.

- (10) "Crime Severity Rating": A classification from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibit A.
- (11) "Crime Spree": A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.
- (12) "Date of Return": The date the prisoner is physically returned [or available for return] to the custody of the Department of Corrections following a hold in another in-state or out-of-state jurisdiction.
- (13) "De Novo Hearing": A new initial prison term hearing, required when there are additional consecutive sentences for crimes which occurred prior to the first prison term hearing.
- (14) "Escape":
 (a) the unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;
 (b) includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;
 (c) does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.
- (15) "Exemplary Behavior": Reasonable compliance with parole conditions [and felony crime free during parole supervision].
- (13) "Extreme Cruelty": The facts of the crime demonstrate:
 (a) the depraved, evil, mind of a person who has no regard for human life and suffering; or
 (b) brutality; or
 (c) intentional infliction of pain for the purpose of revenge, extortion, persuasion or to satisfy some other evil propensity.]
- (16) "Future Disposition Hearing": [The] A hearing at which the sanction for a [parole] violation of parole or post-prison supervision conditions is established.
- (17) "Gang Member": A person who associates with a group which identifies itself through the use of a name, unique appearance, [or] language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity [that results in criminal activity].
- (18) "Gang-Related Activity": Crime committed by a gang member:
 (a) with other known gang members; [or]
 (b) against other known gang members; or
 (c) against a person who is not a gang member; [or]
 [(d)] in order to further the purposes of the gang or impress other gang members.
- (19) "History/Risk Score": A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B.

- (20) "Inactive Parole" includes:
- (a) [general] parole conditions [;]:
 - (A) Do not own, possess, or be in control of any weapon;
 - (B) Obey all municipal, county, state and federal laws;
 - (C) Register as a sex offender pursuant to ORS 181.517-.519;
 - (b) no supervision by a parole officer;
 - (c) no [parole] supervision fees; and
 - (d) name and status maintained on the LEDS and EPR computer systems.
- (21) "In Camera Hearing": The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.
- (22) "Initial Parole Release Date": The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).
- (23) "Inoperative Time": [Time spent outside a state correctional facility without the authorization of the Department of Corrections.] Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.
- (24) "Less Than the Sum of the Terms": An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.
- (25) "Matrix Ranges": Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.
- (26) "The Matrix": A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.
- (27) "Mitigation": The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant Exhibit E-2 and E-3.
- (28) "Parole": A conditional release authorized by the Board from a state correctional facility into the community.
- (29) "Particularly Violent or Otherwise Dangerous Criminal Conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.
- (30) "Parole Board Record": The file the Board maintains for each prisoner containing the information listed in ORS 144.185.
- (31) "Period Under Review": Under Division 40, the time already served on the prison term, normally the three year period prior to the personal review hearing.
- (32) "Post-Prison Supervision": A sentence to a term under the supervision of the Department of Corrections or a corrections agency designated by the Department.
- (33) "Principal Range": The range of months for the crime holding the highest crime severity rating. When the ranges are the same, one shall be designated as the principal range.

- (34) "Preponderance": Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.
- (35) "Probable Cause": A substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it.
- (36) "Prison Term": The time established by the Board of Parole to be served before the parole release date.
- (37) "Prison Term Hearing": The hearing at which the Board establishes an inmate's prison term.
- (38) "Revocation Hearing": A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and whether a recommendation should be made that the parolee or offender be returned to prison [parole or post-prison supervision should be revoked] or continued on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)
- (39) "Serious Physical Injury": Any physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.
- (40) "Stranger": A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.
- (41) "Subcategory": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).
- (42) "Subordinate Range": Any range less than or equal to the principal range.
- (43) "Subpoena Duces Tecum": A subpoena requiring the party to appear at a hearing with a document or piece of evidence to be examined at the hearing.
- (44) "Summing the Ranges": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-35-021.
- (45) "Unauthorized Absence": Time spent outside a state correctional facility without the authorization of the Department of Corrections, whether it is an escape or an unauthorized departure.
- (46) "Unified Range": The total range computed under OAR 255-35-021 for consecutive sentences.
- (47) "Unsum the Ranges": To establish a matrix range at less than the unified range. The effect of unsumming is to treat one or more of the ranges as if concurrent.
- (48) "Variations": The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.
- (49) "Victim": The actual victim of the crime, a representative selected by the victim, or the victim's next of kin. In the case of a minor or incompetent victim, this term shall include the guardian of the victim.

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.

EXHIBIT E-3
AGGRAVATING/MITIGATING FACTORS
(ORS 144.079, 144.120, 144.785, 144.787, OAR 255--35-013-016)

MUST NOT BE ELEMENT OF CRIME OR SUBCATEGORY RATIONALE:

Any aggravating or mitigating circumstances which constitute a defining element, or subcategory rationale of the crime for which the prisoner was convicted or resulted in a lower history risk score shall not justify variation from the guidelines.

MUST BE OTHER THAN FOUND IN H/R SCORE, CRIME SEVERITY RATING:

Aggravation Factor Q (Other) and Mitigation Factor L (Other) may be found to exist in the case of circumstances not reflected or not fully reflected in the history/risk score, the crime severity rating, or otherwise in Exhibit E-1 or E-2.

VICTIM'S PARTICULAR VULNERABILITY:

In the case of a physical or sexual assault, pursuant to ORS 144.787, a victim's particular vulnerability to injury (such as youth, handicapped condition or advanced age) shall constitute an aggravating factor [whether or not it was an element of the crime].

CONSECUTIVE SENTENCES AGGRAVATING FACTOR:

Pursuant to Section 4, Chapter 634, Oregon Laws 1987, for crimes committed on or after July 11, 1987, consecutive sentences shall be considered an aggravating factor.

CRIME SPREE:

For the purpose of Exhibit E-2, a crime spree is a set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.

[EXHIBIT N

INMATES' RIGHTS
AND

BOARD OF PAROLE PROCEDURES

(OAR 255-30-013, 255-40-035, 255-50-010, 255-60-006, 255-80-012)

1. Law that Applies

You are scheduled for a hearing before the Oregon State Board of Parole. Based on the hearing results, the Board will issue an order which will affect your release date from the institution. You should note that parole may be denied. The hearing will be conducted as provided in Chapter 183 and Chapter 144 of the Oregon Revised Statutes (as limited by ORS 183.315) and as further provided in the administrative rules of the Oregon Board of Parole, OAR Chapter 255. These statutes and rules are available through the institution's legal library.

2. Right to An Attorney

Parties are not ordinarily and customarily represented by attorneys. The Board of Parole will not be represented by an attorney at the hearing, and you may represent yourself at the hearing. If you choose to represent yourself, but determine in the course of the hearing that an attorney is necessary, you may not request a recess. The Board will not appoint or pay an attorney for you. You may be accompanied by one person of your choice to the hearing and that person can be an attorney.

3. Presiding Officer

Either the Full Board or a Panel of the Board (two members) will hear your case. One of the members will serve as the presiding officer and will rule on all matters that arise at the hearing. The Board will render the final determination.

4. Hearing Procedure

A Board hearing is less formal than a court appearance. The Board will review the documents in your parole packet, including the Presentence Report or a report of similar content; any additional information provided by police, counsel, the victim, or the district attorney, and any recent psychological/psychiatric evaluations. You have the right to examine these documents before the hearing, subject to the exceptions listed in OAR 255-35-045. You have the right to present additional, relevant information and you have the right to rebut information you believe is inaccurate. You do not have the right to call witnesses or to cross-examine witnesses who have provided information to the Board. In general, information which you wish the Board to consider should be provided in writing prior to the hearing. You, or your representative, may make an oral statement to the Board.

5. Notice and Waiver

You should receive your parole packet and a notice of your hearing at least 14 days before your hearing date. You should bring your copy of the parole packet to your hearing. If you do not receive these materials 14 days prior to your hearing, you may waive the notice period.

6. Continuances

There are normally no continuances granted at the end of a hearing. You should be prepared to proceed at the time of the hearing. However, if you can show that the record should remain open for additional evidence, the presiding Board member may consider that request.

7. Exceptions to Proposed Order

After the hearing you will be sent an order reflecting the Board's decision in your case. This order will be captioned "Board Action Form". This amounts to the final order of the Board of Parole. If you disagree with the order, you may either seek administrative review or appeal directly to the Oregon Court of Appeals. Ordinarily, there will not be an opportunity after the Board issues its order for you to appear before it to object to the order or present additional arguments.

8. Record

A record will be made of the entire hearing to preserve the testimony and other evidence for appeal. This will be done by tape recorder. Ordinarily the record will not be transcribed unless you appeal to the Court of Appeals. If you appeal, you will not have to pay for the cost of transcribing the record, unless the petition is frivolous. If you do not appeal, a copy of the record will be made available to you upon payment of the cost of making it. The Board only maintains taped records for two years. After two years the record is deleted.

9. Appeals and Administrative Reviews

If you wish to appeal the final order, you must file a Petition for Review with the Oregon Court of Appeals within 60 days after the final order is served upon you. If you cannot afford a lawyer to help you with an appeal, you may have the right to appointed counsel. You should contact the Public Defender's Office about having an attorney appointed for you. You also have the right to an administrative review. The request for review must be made within 45 days after the final action of the Board. The administrative review procedure is allowed generally to correct Board error or deal with new information that was not available to the Board or the inmate at the time of the initial prison term hearing.)

off

10-15-90

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

RECEIVED
OCT 15 1990

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of TEMPORARY rule(s) adopted on September 10 and October 5, (Date) 1990

by the Board of Parole & Post-Prison Supervision (Department) (Division)

to be effective October 15, 1990 (Date) through April 1, 1990 (Date)

The within matter having come before the Board of Parole & Post-Prison Supervision (Department) (Division) after

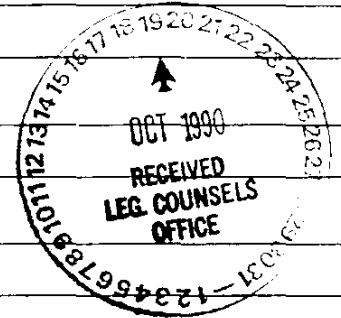
all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

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

Adopted:
New Total Rules) _____

Amended:
Existing Rules) 255-35-025 & 255-75-079

Suspended:
Rules Only) _____



is Administrative Rules of the Board of Parole & Post-Prison Supervision (Department) (Division)

DATED this 15th day of October, 19 90

This Order amends TEMPORARY Order No.(s): _____

By: Arnell H. Jamison 10.15.90 (Authorized Signer)

NOTE: The Expiration date of this Order remains the same as the original Order.

Title: Vice-Chairperson

Statutory Authority: ORS 144.050, 144.140, 144.395, 144.108. or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Setting the Prison Term when the sentence is too short to fit within the matrix range.

Rerelease on parole after revocation and sanctions for post-prison supervision.

Emergency Justification Attached: Do you intend to adopt this rule Permanently? YES NO

If so, have you filed Notice of Proposed Rulemaking for publication in the Oregon Bulletin? YES NO

For Further Information Contact: Cindy Burgess (Rule Coordinator) Phone: 378-2334

RECORDED
OCT 15 1990
SECRETARY OF STATE

BEFORE THE
OREGON STATE BOARD OF PAROLE

In the Matter of the Temporary)
Amendment of Rules) STATEMENT OF JUSTIFICATION
Governing the Board of Parole) AND NEED
)

The Board of Parole is temporarily amending the above referenced rules in order to clarify the rules being applied regarding rerelease of prisoners after parole revocation and sanctions for post-prison supervision violations, and the rules regarding sentences which are too short to come within the matrix guidelines. These rules are needed immediately to fulfill the intent of the legislature and the Advisory Commission on Prison Terms and Parole Standards with regard to these matters.

- (a) Statutory Authority : CRS Chapter 144
- (b) Need for Rules : To make clear that the Advisory Commission on Prison Terms & Parole Conditions and the Board of Parole & Post-Prison Supervision did not intend any prison terms less than six months. To provide for parole and post-prison supervision sanctions which comply with the statutes.
- (c) Documents Relied Upon : ORS 144.108, 144.305, 144.395, OAR 253-11-004 Exhibit C to OAR 255-35

October 15, 1990
Date

Arline H. Stumpton for
Chairperson, Board of Parole & Post-Prison Supervision

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:

None

None

None

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:

None

None

None

Organizational Impact: None

Economic Impact: None

Reference for Data and Methods Used Regarding the Above:

1989-91 Board of Parole & Post-Prison Supervision Budget

Prepared by: Cindy Burgess

Agency: Board of Parole & Post-
Prison Supervision

Title: Rules Coordinator

Date: October 15, 1990

Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date

255-35-025 (2/1/79; 5/1/80, temporary; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 7/1/88; 4/5/90; 10/15/90, temporary)

- (1) When the Board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the minimum initial prison term shall be 6 months and the maximum [initial prison term] shall be as follows:
 - (a) Six months from the statutory good time date on a sentence of at least one year and less than three years;
 - (b) Nine months from the statutory good time date on a sentence of three years and less than six years.
 - (c) Twelve months from the statutory good time date on a sentence of six or more years.
- (2) On short sentences which call for an earlier release date than the guideline range indicates, the following shall apply:
 - (a) using the correct crime category for the principal crime, apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b), or (c) will fall and which will provide a fully applicable range.
 - (b) for subsequent consecutive sentences use the base range unless the principal crime is one of those listed in OAR 255-35-021(4).
 - (c) For example:

	<u>Sent.</u>	<u>GTD</u>	<u>(1)(c)</u>	<u>H/R</u>	<u>CC</u>	<u>Range</u>	<u>Use</u>
Robbery I	10 yr.	30 mo.	-12 mo.=68	2	6	90-130	44-56
Theft I	5 yr.			2	1	6 - 6	<u>6-6</u>
							50-62

- (3) On sentences which are too short to fit within the matrix ranges for the correct crime category, the maximum prison term shall be one day prior to the goodtime date.

- (1) For technical violation(s):
 - (a) A [P]parolee[s/Offenders] whose parole [or post-prison supervision term] has been revoked [for technical violation(s)] may serve further incarceration of up to 90 days for each [offense] revocation. [, not to exceed a total of 180 days.]
 - (b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 90 days for each return, not to exceed a total of 180 days.
- (2) For conduct constituting a crime:
 - (a) A [P]parolee[s/Offenders] whose parole [or post-prison supervision term] has been revoked [for conduct constituting a crime] may serve further incarceration of up to 180 days for each revocation unless mitigation is found.
 - (b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 180 days, not to exceed a total of 180 days.
- (3) Parolees/Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.
- (4) Parolees/Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.
- (5) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest for the violation which resulted in the revocation of parole or post-prison supervision. If the jailor, hearing officer, or Board releases the parolee/offender from custody pending the revocation hearing, the time spent outside actual custody does not count toward the further term of incarceration.
- (6) [Department of Corrections special programs including the Parole Violators Project, are not subject to the provisions of this rule.] Offenders designated for the Department of Corrections Parole Violators Project may serve repeated incarcerations of up to 180 days.
- (7) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.
- (8) Notwithstanding subsections 1-7 of this rule, the Board may choose to postpone rerelease on parole pursuant to Divisions 50 and 60 of this chapter.
- (9) Notwithstanding subsections 1-8 of this rule, the Board may choose to deny rerelease on parole pursuant to OAR 255-75-096.

eff

1-16-91

FILED
JAN 16 1991
PHILADELPHIA

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

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on December 17, 1990 & January 7, 1991 (Date)

by the Board of Parole & Post-Prison Supervision
(Department) (Division)

to become effective January 16, 1991 (Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after (Department) (Division)

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

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: November 1, 1990

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

Adopted:
(New Total Rules)

Amended:
(Existing Rules)

OAD 255-32-005, 32-015, 32-025, 255-75-079, 255-92-035,
92-040, Exhibit AI, Exhibit AII (Div. 35) and Exhibit O
(Div. 80), 255-35-025

as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 16 day of January, 19 91

By: Devin L. Faust
(Authorized Signer)

Title: Chairperson

**JAN 1991
LEGISLATIVE
COUNSELS
OFFICE**

Statutory Authority: ORS 144.050, 144.140, 144.395, 144.335, 144.305, 163.105, 144.780-.783, or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: 255-32-005-025 relates to Aggravated Murder Reviews.
255-75-079 relates to sanctions for violations of parole or post-prison
supervision conditions.
255-92-035-040 relates to the conditions of inactive parole.
Exhibit AI and AII are crime severity ratings. Aggravated Murder is
removed from the ratings as ORS 163.105 provides for the prison term
minimum which in most cases exceeds the matrix range.
Exhibit O is the Administrative Review Request Form.
255-35-025 relates to prison terms on short sentences, too short for rang

For Further Information Contact Cindy Burgess (Rule Coordinator) Phone: 378-2334

FILED
JAN 16 1991
PMU K...

BEFORE THE
OREGON STATE BOARD

OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the)
Amendment of the Rules) STATEMENT OF JUSTIFICATION
Governing the Board of)
Parole & Post-Prison) AND NEED
Supervision)

The Board of Parole and Post-Prison Supervision is amending the above referenced rules in order to provide for aggravated murder reviews which comply with statute, criteria for inactive parole, sanctions for violations of conditions of parole and post-prison supervision which are consistent with the rules of the State Sentencing Guidelines Board, to provide a new form for administrative review requests and to provide for prison term matrix ranges for sentences too short to fit within a full matrix range.

- a) Statutory Authority: ORS 144.050, 144.140, 144.305, 144.335, 144.395, 144.780-783, 163.105
- b) Need for Rule Amendment To comply with Statutes and Rules and to provide a clearer form for administrative review requests.
- c) Documents Relied Upon Oregon Revised Statutes, OAR Chapter 253 and 255

1-15-91
Date

Deann L. Saatz
Chairperson

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:

None

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:

None

Organizational Impact: None

Economic Impact: None

Reference for Data and Methods Used Regarding the Above: 1989-91 Budget

Prepared by: Cindy Burgess

Agency: Board of Parole & Post-Prison Supervision

Title: Rules Coordinator

Date: 1/16/91

DIVISION 32

AGGRAVATED MURDER

Prison Term Hearing [to be Held]
255-32-005

- (1) A person convicted of Aggravated Murder and sentenced to life with a possibility of parole under ORS 163.095 shall receive a [prison term] hearing [under the provisions of Division 32 of these rules] within one year of sentencing. At the hearing [A] a review date congruent with the minimum term set forth in 255-32-010 shall be set rather than a parole release date.
- (2) Persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.
- (3) Persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Correctional custody for a crime other than aggravated murder.

Minimum Period of Confinement Pursuant to ORS 163.105
255-32-010

- (1) The minimum period of confinement for a person convicted of Aggravated Murder as defined by ORS 163.103(1) shall be thirty (30) years.
- (2) The minimum period of confinement for a person convicted of Aggravated Murder as defined by ORS 163.105(2) prior to Dec. 6, 1984 shall be twenty (20) years.

Petition/Purpose for Hearing
255-32-015

The prisoner may petition and the Board shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time:

- (1) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(1); [or]
- (2) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(2) [.] [.] [.]

(3) In the case of consecutive aggravated murder sentences the prisoner may petition after:

(a) fifteen (15) years times the number of consecutive sentences imposed pursuant to the ORS 163.105(2) in effect prior to December 6, 1984; or

(b) twenty (20) years times the number of consecutive sentences imposed pursuant to ORS 163.105(1).

Purpose of Hearing

255-32-020

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

Manner of Hearing

255-32-025

(1) The proceeding shall be conducted in the manner prescribed for a contested case hearing under ORS 183.310 to 183.590 except that:

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

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

(2) If upon hearing all the evidence, the full Board upon a unanimous vote of all five members finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole or work release and shall set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.

(3) When a prisoner has a consecutive sentence for a crime other than aggravated murder, the parole release date for the consecutive sentence shall be determined at the time the Board determines a parole release date on the aggravated murder conviction.

Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date

255-35-025 (2/1/79; 5/1/80, temporary; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 7/1/89; 4/5/90; 10/15/90, temporary; 1/16/91)

(1) When the Board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the minimum initial prison term shall be 6 months and the maximum [initial prison term] shall be as follows:

- (a) Six months from the statutory good time date on a sentence of at least one year and less than three years;
- (b) Nine months from the statutory good time date on a sentence of three years and less than six years.
- (c) Twelve months from the statutory good time date on a sentence of six or more years.

(2) On short sentences which call for an earlier release date than the guideline range indicates, the following shall apply:

- (a) Using the correct crime category for the principal crime, apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b), or (c) will fall and which will provide a fully applicable range.
- (b) for subsequent consecutive sentences use the base range unless the principal crime is one of those listed in OAF 255-35-021(4).
- (c) For example:

	<u>Sent.</u>	<u>GTE</u>	<u>(1)(c)</u>	<u>H/E</u>	<u>CC</u>	<u>Range</u>	<u>Use</u>
Robbery I	10 yr.	80 mo.	-12 mo.=68	2	6	90-130	44-56
Theft I	5 yr.			2	1	6 - 6	<u>6-6</u> 50-62

(3) On sentences which are too short to fit within the matrix ranges for the correct crime category, the maximum prison term shall be one day prior to the goodtime date.

Guidelines for Rerelease: Sanctions

255-75-079 (4/19/89, temporary; 11/1/89; 10/15/90, temporary; 1/16/91)

- (1) For technical violation(s):
 - (a) A [P]parolee[s/Offenders] whose parole [or post-prison supervision term] has been revoked [for technical violation(s)] may serve further incarceration of up to 90 days for each [offense] revocation. [, not to exceed a total of 180 days.]
 - (b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 90 days for each return, not to exceed a total of 180 days.
- (2) For conduct constituting a crime:
 - (a) A [P]parolee[s/Offenders] whose parole [or post-prison supervision term] has been revoked [for conduct constituting a crime] may serve further incarceration of up to 180 days for each revocation [unless mitigation is found].
 - (b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 180 days, not to exceed a total of 180 days.
- (3) Parolees/Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.
- (4) Parolees/Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.
- (5) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest for the violation which resulted in the revocation of parole or post-prison supervision. If the jailor, hearing officer, or Board releases the parolee/offender from custody pending the revocation hearing, the time spent outside actual custody does not count toward the further term of incarceration.
- (6) [Department of Corrections special programs including the Parole Violators Project, are not subject to the provisions of this rule.] Offenders designated for the Department of Corrections Parole Violators Project may serve repeated incarcerations of up to 180 days.
- (7) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.
- (8) Notwithstanding subsections 1-7 of this rule, the Board may choose to postpone rerelease on parole pursuant to Divisions 50 and 60 of this chapter.
- (9) Notwithstanding subsections 1-8 of this rule, the Board may choose to deny rerelease on parole pursuant to OAR 255-75-096.

- (1) When the Board decides to remove a parolee from active supervision, the Board shall:
 - (a) delete [any special] conditions which the parolee has been required to follow except the following conditions:
 - (A) offender shall obey all municipal, county, state and federal laws;
 - (B) offender shall not own, possess or be in control of any weapon;
 - (C) if applicable, an offender convicted of a sex offense shall register his or her residency pursuant to ORS 181.517-519; and
 - (b) issue a new parole order certifying inactive status.
- (2) A parolee shall be considered to be on inactive parole as of the date the parole order certifying inactive status is signed by the Board.

Bases for Reinstating Active Supervision or Revoking Inactive Supervision;
Procedure
255-92-040 (12/16/87; 5/19/88; 7/1/88; 4/19/89, temporary; 11/1/89)

- (1) Active supervision may be reinstated for the following reasons:
 - (a) failure to obey all municipal, county, state and federal laws [abide by the general conditions of parole; or]
 - (b) ownership, possession, or control of any weapon;
 - (c) failure to register residency as provided in ORS 181.517-519;
 - [(b)](d) inactive parole is no longer in the best interests of the parolee or society.
- (2) When the Board receives information indicating that reinstatement on active parole supervision may be warranted pursuant to section (1) of this rule, the Board shall review the parolee's conduct by administrative file pass to decide whether or not to cite the parolee to a show cause hearing.
- (3) After the show cause hearing, the Board shall notify the parolee of its decision. If the Board decides to reinstate active parole supervision, the Board shall also notify the parolee of the length of the parolee's next period of active supervision, and the reasons for reinstating active supervision.
- (4) Show cause hearings under this section shall be conducted under the same procedures as parole revocation hearings in Division 75.
- (5) If a parolee is on inactive parole and parole is revoked following a parole revocation hearing, in addition to any other sanctions imposed by the Board, when the parolee is released from custody the parolee will be reinstated on active supervision. The new period of active supervision will be set at the time the future disposition decision is made.

(6) If a parolee is reinstated on active supervision after a parole revocation hearing, in addition to any other sanctions imposed by the Board, when the parolee is released from custody the parolee will be reinstated on active supervision. The new period of active supervision will be set at the the time the future disposition decision is made.

(7) The new period of active supervision under this section shall be determined pursuant to the guidelines set forth in Exhibit L.

EXHIBIT A-I
 (ORS 144.120, 144.780, 255-30-035, 255-35-013-014)

CRIME SEVERITY RATINGS

ORS	CRIME	FELONY CLASS	RATING	PERSON
163.535	Abandonment of Child	C	2	Yes
166.085	Abuse of Corpse	C	3	Yes
475.993	Act By Registrant	C	1	No
163.095	Aggravated Murder	U	[7,8]	Yes ←
	Conspiracy to Commit Aggravated Murder	A	6	Yes
164.057	Aggravated Theft I	B	4	No
164.325	Arson I	A	6,5	Yes
164.315	Arson II	C	2	Yes
163.185	Assault I	A	6,5	Yes
163.175	Assault II	B	4	Yes
163.165	Assault III	C	3,2	Yes
161.405	Attempt - Receives the crime severity rating one rating below the rating for the lowest subcategory of the completed crime, for example, Attempted Arson I would be a 4 if the completed crime could have been classified in subcategory 1 of Arson I as a 6. An attempt remains a rating of 1 if 1 is the lowest rating for the completed crime.			
163.515	Bigamy	C	1	Yes
162.015	Bribe Giving	E	3	No
162.025	Bribe Receiving	E	3	No
162.275	Bribe Receiving by a Witness	C	2	No
162.265	Bribing a Witness	C	1	No
164.225	Burglary I	A	5,4,3	Yes
164.215	Burglary II	C	3,2,1	No
166.220	Carrying Weapon With Intent to Use	C	2	Yes
163.275	Coercion	C	4,3	Yes
167.017	Compelling Prostitution	E	4	Yes
164.377(2)(3)	Computer Crime/Proprietary Info	C	2,1	No
161.450	Conspiracy - Classified at same rating as conspired crime (except murder or treason).			
803.080	Counterfeit Vehicle Title	C	1	No
475.992(3)	Creation or Delivery of a Counterfeit Substance	A,E,C	5,4,3,1	No
163.005	Criminal Homicide	A	2	Yes
164.365	Criminal Mischief I	C	1	No
163.205	Criminal Mistreatment I	C	2	Yes
163.555	Criminal Nonsupport	C	1	No
165.022	Criminal Possession Forged Instrument I	C	1	No
165.032	Criminal Possession Forgery Device	C	1	No
164.140	Criminal Possession Rented/Leased Property	C	2,1	No

163.145	Criminally Negligent Homicide	C	4.1	Yes
163.257	Custodial Interference I	B	3	Yes
163.245	Custodial Interference II	C	2	Yes
163.673	Dealing in Depictions of Child's Sexual Conduct	E	4	Yes
475.995(1)	Delivery of Controlled Substance to Minor	A	4	Yes
475.995(2)	Delivery of Controlled Substance to Minor	E	4	Yes
475.995(5)	Delivery of Marijuana to Minor	A	4	Yes
475.995	Delivery of Controlled Substance to Student or Minor within 1000 feet of School	A	4	Yes
475.995(2)	Delivery of Marijuana for Payment	B	4.3.1	No
167.365	Dogfighting	C	1	No
811.175;	Driving While			
811.182	Suspended or Revoked	C	1	No
260.402; 260.555; 260.575; 260.615;				
260.645; 260.665(1); 260.655(5);	Election Law			
260.665(2)(d)-(f); 260.715	Offenses	C	1	No
164.885	Endangering Aircraft	C	2	Yes
163.165	Escape I	B	4	Yes
162.155	Escape II	C	1.2	No
162.205	Failure to Appear I	C	2	No
811.705	Failure to Perform Duties of Driver	C	3.1	Yes
801.605	False Swearing Relating to Regulation of Vehicle Related Business	C		No
166.270	Foreign Possession of Firearm	C	1	Yes
500.991	Fishing Violation	C	3	No
532.140; 531.610;	Forest Products			
532.620; 532.990(2)	Offenses	C	1	No
803.230	Forge/Alter Vehicle Title Regis.	C	1	No
103.005	Forgery	C	1.2.1	No
59.055; 59.115; 59.127;				
59.135; 59.145; 59.165;	Fraud			
59.730; 59.740; 59.750;	Involving Securities	B	4.1	No
59.760; 59.770; 59.780;				
59.790; 59.800;				
165.055(3b)	Fraudulent Use of Credit Card	C	1	No
811.185	Habitual Traffic Offender (OMVCO)	C	1	No
166.420	Handgun/ Failure to Keep Register	C	2	Yes
162.325	Hindering Prosecution	C	1	No
163.525	Incest	C	3	Yes
166.165	Intimidation I	C	2	Yes
163.235	Kidnapping I	A	6	Yes
163.225	Kidnapping II	B	4	Yes
163.118	Manslaughter I	A	6	Yes
163.125	Manslaughter II	B	5.4.3	Yes
166.410	Manufacture, Importation, Sale, Gift, Loan or Possession of Firearms	B	4	Yes
471.440	Manufacture of Mash; Operating Distillery Without a License	C	1	No
475.995(1);	Manufacture or Delivery of Controlled Substance	A,B,C	5.4.3.1	No
475.995(1-4)				
100.387	Manufacture of Destructive Device	C	1	Yes
117.191				

Crime Severity Rating

163.115	Murder	U	7.5	Yes
	Conspiracy to Commit Murder	A	6	Yes
165.065(3b)	Negotiating a Bad Check	C	2.1	No
166.450	Obtention of ID Marks (Firearm)	C	2	Yes
815.410	Odometer Tampering			
815.430	or False Report	C	1	No
166.660	Paramilitary Activity	C	1	Yes
163.680	Paying for Viewing Child's Sexual Conduct	C	1	Yes
162.065	Perjury	C	2	No
490.992	Poaching	C	1	No
475.992(4)	Possession of a Controlled Substance	B,C	3,2,1	No
166.382	Possession of a Destructive Device	C	3	Yes
165.070	Possession of a Fraudulent Communications Device	C	1,1	No
167.137	Possession of Gambling Records	C	1	No
166.272	Possession of Machine Gun, Short-Barreled Rifle or Shotgun or Silencer	B	3	Yes
819.300	Possession of a Stolen Vehicle	C	1	No
166.275	Possession of Weapon By Inmate of Penal Institution	A	5	Yes
167.127	Promoting Gambling I	C	1	No
167.012	Promoting Prostitution	C	1	Yes
166.220	Racketeering	A	5,4	
163.875	Rape I	A	5,4	Yes
163.865	Rape II	B	4,3	Yes
163.855	Rape III	C	2	Yes
166.015	Riot	C	2	Yes
164.415	Robbery I	A	6,4	Yes
164.405	Robbery II	B	4	Yes
164.395	Robbery III	C	2	Yes
161.065	Sadomasochistic Abuse or Sexual Conduct in Live Show	C	1	Yes
165.425	Sexual Abuse I	C	3	Yes
163.411	Sexual Penetration Foreign Obj. I	A	6,1	Yes
163.405	Sexual Penetration Foreign Obj. II	B	4	Yes
166.429	Shipping, Transporting, Receiving, Selling or Furnishing Firearm in Furtherance of a Felony	B	4	Yes
163.405	Sodomy I	A	6.5	Yes
163.395	Sodomy II	B	4	Yes
163.385	Sodomy III	C	2	Yes
161.435	Solicitation - Classified the same attempt.			
165.090	Sports Bribe Receiving	C	2	No
165.085	Sports Bribery	C	2	No
162.185	Supplying Contraband	C	4,3,2,1	Yes
167.212	Tampering With Drug Records	C	1	No
162.285	Tampering With a Witness	C	2	Yes
164.085	Theft by Deception	C	2,1	No
164.075	Theft By Extortion	B	4,3	Yes
164.095	Theft By Receiving	C	2	No
164.055	Theft I	C	2,1	No
164.125(4)(c)	Theft of Services	C	1,1	No
164.125(4)(d)	Theft of Services \$10,000+	E	4	No
1/3/55				

(Crime Severity Ratings)

164.065	Theft, Lost/Mislaid Property	C	1	No
819.310	Trafficking in Stolen Vehicles	C	3	No
163.677	Transporting Child Pornography	E	4	No
166.005	Treason	U	1	
	Conspiracy to Commit Treason	A	6	
164.872(2)	Tree Spiking, Inconvenience, Annoyance or Alarm	C	2	Yes
164.872(3)	Tree Spiking, Serious Injury	E	4	Yes
164.138	Unauthorized Use of Vehicle	C	1.1	No
163.670	Using a Child in a Display of Sexually Explicit Conduct	A	6.5	Yes
247.121(2); 247.125:	Vote Registration			
247.340(4); 247.420(2)	Offenses	C	1	No
411.630; 411.640:	Welfare/			
411.675; 411.690:	Food Stamp Fraud	C	2.1	No
127.585	Withdrawal of Life-Sustaining Procedures by Altering or Forging a Power of Attorney or by Concealing or Destroying a Revocation	A	5	No

EXHIBIT A
PART II

Effective Dates as Noted.

Aggravated Murder Effective 7/1/88, Removed 1991
163.095

[SUBCATEGORY 1 - RATING 8:

Stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation.

SUBCATEGORY 2 - RATING 7:

All other cases of aggravated murder.]

Arson I Unchanged since 1985
164.325

SUBCATEGORY 1 - RATING 6:

Knew or should have known premises were occupied at time of act or injury.

SUBCATEGORY 2 - RATING 5:

All other cases of Arson I.

Assault I Unchanged since 1985
163.185

SUBCATEGORY 1 - RATING 6:

Cases of Assault I in which there is intentional cause of serious physical injury to another by means of a deadly or dangerous weapon.

SUBCATEGORY 2 - RATING 5:

Cases of Assault I in which the victim(s) provoke the crime to a substantial degree or other evidence that misconduct by the victim(s) contributed substantially to the criminal episode.

Assault III
163.165

Effective 4/9/83

SUBCATEGORY 1 - RATING 3:

Assault III/Vehicular where defendant has at least 1
prior DUII convictions within a 5 year period.

SUBCATEGORY 2 - RATING 2:

All other cases of Assault III.

Burglary I
164.225

Effective 7/20/83

SUBCATEGORY 3 - RATING 5:

Entry into a dwelling, where defendant causes or
attempts to cause physical injury to any person; is
armed with a deadly weapon; uses or threatens to use a
dangerous weapon; or death occurs.

SUBCATEGORY 2 - RATING 4:

Entry into a dwelling in which goods taken had a value
of \$5,000 or more.

SUBCATEGORY 1 - RATING 3:

Entry into a dwelling in which goods taken had a value
of less than \$5,000.

Burglary II
164.215

Unchanged since 1983

SUBCATEGORY 1 - RATING 3:

Theft or destruction of over \$5,000 in property.

SUBCATEGORY 2 - RATING 2:

Theft or destruction of between \$1,000-\$5,000.

SUBCATEGORY 3 - RATING 1:

Theft of less than \$1,000.

Coercion
163.271

Unchanged since 1981

SUBCATEGORY 1 - RATING 4:

Compelling another to act through threat of serious physical harm or property damage; blackmail.

SUBCATEGORY 2 - RATING 3:

All others.

Computer Crime
164.377(2)(3)

Added 7/1/88; Theft 1 amended 8/5/88

Breakdown is the same as for Theft 1.

Criminal Possession of Stolen/Leased
Property
164.345

Theft 1 amended 8/5/88

Breakdown is the same as for Theft 1.

Criminally Negligent Homicide
160.341

Effective 4/1/88

SUBCATEGORY 1 - RATING 4:

Vehicular Homicide where defendant with criminal negligence causes the death of another person.

SUBCATEGORY 2 - RATING 3:

Cases where the victim's misconduct contributed to the criminal episode.

Delivery of Controlled Substance
475.992(1); 475.995; 475.993(2)(a)

Effective 1-14-17

SUBCATEGORY 1 - RATING 5:

Operating or participating in the operation of a location in which crack cocaine or heroin is sold. 475.993(2)(a). The delivery of heroin as part of a distribution or sales network. See Exhibit A-III. 475.992(1)(a)-(c).

SUBCATEGORY 2 - RATING 4:

Delivery of an illegal drug (including, but not limited to methamphetamines) (Schedule I, II or III) other than marijuana where there is evidence that the delivery is part of a drug selling or distribution network or scheme; see Exhibit A-III. 475.992(1)(a)-(c).

Knowingly owning or providing a location for the sale or distribution of illegal drugs other than marijuana. 475.993(2)(a) (Schedule I).

Delivery of any quantity of illegal drug in and on, or within one thousand feet of, the real property comprising a public or private elementary and/or middle school. 475.992(1)(a)-(c); 475.992(2); 475.993(2)(a) (Schedule I, II or III).

Delivery or assisting in the delivery of illegal drugs in which a minor is involved. 475.993(1) & (2) (includes marijuana, but not Schedule III).

SUBCATEGORY 3 - RATING 3:

Delivery or assisting in the delivery of illegal drugs for compensation or profit in circumstances other than those listed above. 475.992(1)-(c); 475.992(2)(a); 475.995. (Schedule I, II or III.)

SUBCATEGORY 4 - RATING 1:

Delivery of a small amount of any illegal drug not for profit or compensation. All other cases of delivery of illegal drugs not noted above.

Escape II
167.155

Effective 10/01/87

SUBCATEGORY 1 - RATING 2:

Use or threat to use physical force escaping from custody; or, having been convicted or found guilty of a felony, escapes from custody imposed as a result thereof; or escapes from a correctional facility or, while otherwise under the jurisdiction of the Psychiatric Security Review Board, departs from state without authorization of Board.

SUBCATEGORY 2 - RATING 1:

Escapes while on a pass, terminal leave or work release from a county correctional facility; all other cases.

Failure to Perform Duties of a Driver
Where There is Injury or Death
833.701

Effective 7/1/87

SUBCATEGORY 1 - RATING 3:

Loss, potential loss, or receiving of over \$5,000.

SUBCATEGORY 2 - RATING 2:

Loss, potential loss, or receiving of \$1,000 to \$5,000.

Forgery I
165.031

Effective 7/1/87

SUBCATEGORY 1 - RATING 3:

Loss, potential loss, or receiving of over \$5,000.

SUBCATEGORY 2 - RATING 2:

Loss, potential loss, or receiving of \$1,000 to \$5,000.

SUBCATEGORY 3 - RATING 1:

Loss, potential loss, or receiving of under \$1,000.

Fraud Involving Securities Effective 3/10/77
59.085; 59.115; 59.127; 59.135; 59.145; 59.185;
59.730; 59.740; 59.750; 59.760; 59.770; 59.780; 59.790; 59.800

SUBCATEGORY 1 - RATING 4:

Loss, potential loss, or receiving of \$10,000 or more

SUBCATEGORY 2 - RATING 5:

All other cases of fraud involving securities.

homicide II Effective 4/84
169.125

SUBCATEGORY 1 - RATING 5:

Cases where death of a victim, usually a spouse, results from prolonged abuses; failure to provide for victim's welfare resulting in death; medical treatment withheld to conceal physical signs of abuse.

SUBCATEGORY 2 - RATING 4:

Cases of aide another to commit suicide (or aide); cases where death of victim involves use of a weapon or follows an assault; cases where death is a negligent use of vehicle and defendant has at least 2 prior DUI convictions within 5 years.

SUBCATEGORY 3 - RATING 3:

Cases where death is by negligent use of a vehicle; all other cases.

Manufacture of Controlled Substance
475.992(1); 475.993(2)(a)

Effective 7/1/78

SUBCATEGORY 1 - RATING 5:

Operating or assisting in the operation of a laboratory for the production of methamphetamines. Cultivating or assisting in the manufacture of marijuana for distribution or sale as part of a distribution network or scheme; see Exhibit A-III. Cultivating or assisting in the cultivation of more than 100 marijuana plants.

SUBCATEGORY 2 - RATING 4:

Manufacturing or assisting in the manufacture of illegal drugs other than methamphetamines or marijuana, when there is evidence that the manufacture is part of a sale, mailing or distribution network or scheme; see Exhibit A-III. (Schedule I, II or III.) Knowingly owning or providing a location for the manufacture of illegal drugs other than marijuana for sale or distribution. (Schedule I, II or III.) (Schedule I, II or III.)

SUBCATEGORY 3 - RATING 3:

Manufacturing or assisting in the manufacture of illegal drugs for distribution. Manufacture of marijuana in the amount of 75 or more plants and/or in circumstances other than those listed in Subcategory 1. See Exhibit A-III. (Schedule I, II or III.)

SUBCATEGORY 4 - RATING 1:

Manufacture of illegal drugs for the offender's own use. All other cases of manufacturing of illegal drugs. (Schedule I, II or III.)

Murder
168.115

Unchanged since 1985

SUBCATEGORY 1 - RATING 8:

Stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation.

SUBCATEGORY 2 - RATING 7:

All other cases of murder.

(Breakdown is the same as for Aggravated Murder)

Negotiating a Bad Check Added 7/1/88; Theft 1 amended 8/1/88
165.065(3b)

Breakdown is the same as for Theft 3.

Possession of Controlled Substance Amended 11/1/88
475.982(4)

SUBCATEGORY 1 - RATING 3:

Possession of illegal drugs other than marijuana with intent to deliver. (Schedule I, II or III.) See Exhibit A-III. Possession of illegal drugs which constitute the precursors or byproducts of the manufacturing process (as defined by ORS 475.940).

SUBCATEGORY 2 - RATING 2:

Possession of illegal drugs other than cocaine base, methamphetamine, and heroin (which are included in Subcategory 1) with intent to deliver. (Schedule I, II & III.)

SUBCATEGORY 3 - RATING 1:

Possession of illegal drugs in circumstances other than those listed above (e.g. for personal use). (Schedule I, II or III.)

Possession of a Fraudulent Communications Device Theft 1 amended 8/1/88
165.070

Breakdown is the same as for Theft 1.

Racketeering Unchanged since 1985
166.720

SUBCATEGORY 1 - RATING 5:

The principle party involved in violation of the Racketeering statute. Involvement is that of planning, directing or participating in the scheme or schemes resulting in direct profit or gain.

SUBCATEGORY 2 - RATING 4:

The subordinate party involved in violation of the Racketeering statute. Involvement is limited to acting as an agent or employee of the principle. There is no involvement in planning, directing or participating in the scheme or schemes in violation of this statute.

Rape 1
163.329

Amended 11/1/89

SUBCATEGORY 1 - RATING 6:

Stranger to stranger; breaking and entering; threat to use or use of weapon; actual or threat of serious bodily or emotional harm; intercourse with female or male under 17. (Cases in which the female is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.)

SUBCATEGORY 2 - RATING 3:

All other cases.

Rape 11
163.369

Amended 11/1/89

SUBCATEGORY 1 - RATING 4:

Cases in which the female is under 14 years of age.

SUBCATEGORY 2 - RATING 3:

All other cases.

Robbery 1
164.415

Effective 7/20/88

SUBCATEGORY 1 - RATING 6:

Cases of robbery in which the defendant is armed with a deadly or dangerous weapon; discharges a firearm; uses a dangerous weapon; makes explicit or immediate threats by word or gesture; causes death of or physical injury to the victim.

SUBCATEGORY 2 - RATING OF 5:

All other cases of Robbery I.

Sexual Penetration with Foreign Object 1 Rape 1 Amended 11/1/89
163.411

SUBCATEGORY 1 - RATING 6:

Sexual Penetration with Foreign Object 1 is broken down
in the same manner as Rape 1.

SUBCATEGORY 2 - RATING 5:
All other cases.

Sodomy 1 Rape 1 Amended 11/1/89
163.409

SUBCATEGORY 3 - RATING 6:

Sodomy 1 is broken down in the same manner as Rape 1.

SUBCATEGORY 2 - RATING 5:

All other cases.

Supplying Controlled Substance Effective 11/20/89
302.021

SUBCATEGORY 1 - RATING 4:

While confined in a correctional facility, juvenile
facility or state hospital, makes, obtains or possesses
any firearm; knowingly introduces any firearm into a
correctional facility, juvenile facility, or state
hospital.

SUBCATEGORY 2 - RATING 3:

While confined in a correctional facility, juvenile
facility or state hospital, makes, obtains or possesses
dangerous weapon; knowingly introduces any dangerous
weapon into a correctional facility, juvenile facility
or state hospital.

SUBCATEGORY 3 - RATING 2:

While confined in a correctional facility, juvenile
facility or state hospital, makes, obtains or possesses
any Schedule I, II, or III controlled substance except
marijuana; knowingly introduces any Schedule I, II or
III controlled substance into a correctional facility,
juvenile facility or state hospital.

SUBCATEGORY 4 - RATING 1:

All other cases.

Theft by Deception
164.085

Theft 1 amended 8/5/88

Breakdown is the same as for Theft 1.

Theft by Extortion
164.073

Unchanged since 1985

SUBCATEGORY 1 - RATING 4:

Threat of serious bodily harm or death.

SUBCATEGORY 2 - RATING 3:

All others.

Theft J
164.063

Amended 4/4/88 & 8/5/88; effective 8/5/88

SUBCATEGORY 1 - RATING 1:

- Theft or receiving of \$1,000 or more.
- Theft of a motor vehicle for personal transportation.
- Theft of a livestock animal.
- Theft of a firearm or explosive.
- Theft during riot or catastrophe.

SUBCATEGORY 2 - RATING 1:

Thefts under \$1,000.

Theft of Services
164.125(4)(c)

Theft 1 amended 8/5/88

Breakdown is the same as for Theft 1.

Unauthorized Use of Vehicle
164.135

Unchanged since 1985

SUBCATEGORY 1 - RATING 2:

Loss, destruction or severe damage to vehicle or property; or injury to others.

SUBCATEGORY 2 - RATING 1:

All others.

Unlawful Creation or Delivery
of Counterfeit Substance
475.992(3)

Effective 7/14/88

Breakdown is the same as for Manufacture or Delivery of
Controlled Substance.

Using a Child in a Display of
Sexually Explicit Conduct
163.670

Effective 4/4/88

SUBCATEGORY 1 - RATING 6:

Child 12 years of age or under.

SUBCATEGORY 2 - RATING 5:

All other cases.

Welfare/Food Stamp Fraud Added 4/4/88: Theft 3; amended 8/1/88:
411.630; 411.640; 411.670;
411.690; 411.840

Breakdown is the same as for Theft 1.

EXHIBIT C: ADMINISTRATIVE REVIEW REQUEST FORM
BOARD OF PAROLE AND POST-PRISON SUPERVISION
OREGON ADMINISTRATIVE RULES CHAPTER 255, DIVISION 80

Name: _____ SID# _____

Request for Review of BAF # _____ dated _____

Requests will be most effective if short and to the point.

Your request must be made within 45 days of the mailing date on the Board Action Form (BAF) and must meet at least one of the criteria listed below:

1. There is no substantial evidence to support a finding of:

because: _____

2. Pertinent information was available at the time of the original hearing which, through no fault of the prisoner, was not considered.

3. Pertinent information was not available at the time of the original hearing which would have had an effect on the Board action.

Explain what information was or was not available, how it is relevant, and how it would have had an effect on the Board action. Attach documentary evidence, such as court orders.

4. The Board action is inconsistent with its rules or policies and the inconsistency was not adequately explained in that: _____

5. The Board action is in violation of statutes and/or constitutions because: _____

6. I have requested review of the same issue(s) on _____
_____ dates

7. I have sought judicial review of the same issue(s) on _____
_____ dates

Prepared by _____
(if other than self)

Signed by _____ Date _____
(inmate requesting review)

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FEB 20 3 48 PM '91

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

PHILIP
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on February 19, 1991
(Date)

by the Board of Parole and Post-Prison Supervision
(Department) (Division)

to become effective 2/20/91
(Date)

The within matter having come before the Board of Parole and Post-Prison Supervision after
(Department) (Division)

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

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: 4/5/90 and 10/15/90

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

Adopted: 255-80-001, 255-80-011
(New Total Rules)

Amended: 255-80-005, 255-80-010, 255-80-012
(Existing Rules)

Repealed:
(Total Rules Only)

as Administrative Rules of the Board of Parole and Post-Prison Supervision
(Department) (Division)

DATED this 20th day of February, 19 91

By: Vern Faatz
(Authorized Signer)

Title: Vern L. Faatz, Chairperson

Statutory Authority: ORS 144.050, 144.140, 144.335 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Administrative Review criteria and procedures

For Further Information Contact: Cindy Burgess

(Rule Coordinator)

Phone: 378-2334

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FEB 20 3 48 PM '91

BEFORE THE OREGON STATE

BOARD OF PAROLE AND POST-PRISON SUPERVISION

PHILIP
SECRETARY OF STATE

In the Matter of the
Amendment of the Rules
Regarding Administrative
Appeals and Exhaustion
of Remedies

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STATEMENT OF JUSTIFICATION
AND NEED

The Board of Parole and Post-Prison Supervision is adopting and amending the above referenced rules in order to provide for notice of exhaustion of administrative remedies and to provide clearer guidelines for application and review of administrative appeals.

- a) Statutory Authority : ORS 144.050, 144.140, 144.335
- b) Need for Rule Amendment : To implement legislative changes in ORS 144.335 regarding exhaustion of administrative remedies.
- c) Documents Relied Upon : ORS 144.335, OAR 255-80.

2.20.91
Date

Vern Faatz
Vern L. Faatz, Chairperson

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:
None

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:
.....
These rules could have the effect of allowing the Attorney General to make motions to dismiss for lack of exhaustion of administrative remedies--which could cause a reduction in
Organizational Impact: Attorney General Fees in the short run.
None

Economic Impact: None

Reference for Data and Methods Used Regarding the Above:

1989-91 Board Budget. Attorney General Billing Statements.

Prepared by: Cindy Burgess

Agency: Board of Parole and
Post-Prison Supervisor

Title: Rules Coordinator

Date: 2/20/91.

DIVISION 80

ADMINISTRATIVE APPEAL

Exhaustion of Remedies (ORS 144.335)

255-80-001 (2/20/91)

- (1) A Board order is final and effective the date it is signed, however it is not final for purposes of the time period within which to appeal to the Court of Appeals until the prisoner exhausts his/her administrative review remedies.
- (2) A prisoner has exhausted his/her administrative remedies after complying with 255-80-005, and after the Board denies review, or grants review and either denies or grants relief. The Board shall notify the prisoner that exhaustion has occurred and the time for judicial appeal shall run from the mailing date of the notice.

Procedure for [Requesting a] Administrative Review

255-80-005 (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88; 11/1/89; 2/20/91)

- (1) A prisoner may request an administrative review by sending Exhibit O, Administrative Review Request Form, to the Board concisely explaining how his/her case fits the criteria for review [defined] listed in rule 255-80-010.
- (2) Requests for administrative review must be [made] received within forty-five (45) days after the mailing date on the Board's final action on the reviewed issue.
- [(3)] A waiver of the 45 day deadline will be granted only if relevant new information is submitted which was particularly difficult to obtain.]
- [(4)] An administrative review may be initiated by the Board or its designee without regard to the 45 day deadline.]
- [(5)](3) If the Board or its designee determines that the request is consistent with the criteria as defined in rules 255-80-010 and 255-80-011, and meets the deadline requirements, the matter will be resolved by the procedures outlined in OAR 255-80-012.
- [(6)](4) When [the appeal] review is denied, the Board or its designee shall inform the prisoner in writing of the specific reasons for denial and the prior decision remains in effect.

Criteria for Granting a Review (ORS 183.482(8))
255-80-010 (2/1/79; 5/19/88; 12/6/88; 2/20/91)

The criteria for granting a review are:

- (1) The Board action is not supported by evidence in the record [the written findings, or the written findings are inaccurate]; or
 - (2) Pertinent information was available at the time of the hearing which, through no fault of the prisoner, was not considered; or
 - (3) Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions; or
 - (4) The action of the Board is inconsistent with its rules or policies [or is contrary to law] and the inconsistency is not explained; or
 - (5) The action of the Board is in violation of constitutional or statutory provisions or is a misinterpretation of those provisions.
 - (6) The action of the Board is outside its statutory grant of discretion.
- [(5) The matters raised on review may have an effect on the original decision.]
- [(6) There is a change in the prisoner's sentence; or]
- [(7) There is a change in the Board's rules or the statutes which would substantively affect the prisoner, e.g., change his/her prison term, parole status, or parole conditions.]

Limitations on Requests for Administrative Review
255-80-011 (2/20/91)

The Board or its designee may deny review of the following matters:

- (1) Findings of aggravation when the Board has set the prison term within or below the matrix range;
- (2) Findings of aggravation when the Board has not overridden a judicial minimum and the prison term has been set equal to the judicial minimum;
- (3) Matters which have previously been appealed and decided on the merits by either the Board or the appellate court(s);

- (4) Board orders that were mailed more than 45 days prior to the request for review;
- (5) Subject matter of a hearing or review and/or Board order other than the Board order being appealed;
- (6) Matters that will not change the parole release date or conditions or length of supervision;
- (7) Board orders that are not final; or
- (8) Errors previously corrected.

Administrative Review Procedure
255-80-012 (12/6/88; 2/20/91)

- (1) If the Board or its designee determines that the request for review is consistent with the criteria in OAR 255-80-010 and the limits of 255-80-011, the case may be opened for review.
- (2) The Board may open a case for reconsideration of a finding without receiving a request, without regard to time limits, and without opening all findings for review and appeal.

[(2)](3) The review may be conducted by the following methods:

- (a) administrative file pass, with the number of concurring votes required by OAR 255-30-015; or
- (b) other administrative action by the Board or its designee, [i.e.] e.g., to correct errors in the history risk score, crime category, credit for time served, inoperative time or adjusted commitment dates] ; or
- (c) administrative hearing, in cases where review would cause an adverse result for the prisoner.

[(3)](4) If the inmate waives the right to adequate notice of the hearing and receipt of the Board Review Packet, the administrative review hearing shall be conducted.

[(4)](5) The prisoner shall be notified in writing of the Board decision and findings.

Administrative Review Hearing Packet
255-80-015 (5/19/88; 7/1/88; 12/6/88; 11/1/89)

The Administrative Review Hearing Packet shall contain:

- (1) institution face sheet;
 - (2) Board Action Form granting administrative review;
- 2/20/91 73 Administrative Review

- (3) all information attached to the Board Action Form granting review;
- (4) administrative review request;
- (5) all Board Action Forms since the prison term hearing;
- (6) psychological evaluations (last 6 months);
- (7) correspondence;
- (8) field parole analysis report or comparable report;
- (9) court orders; and
- (10) Inmates' Rights and Board of Parole and Post-Prison Supervision Procedures.

att

5-1-91

RECEIVED
MAY 1 1991

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

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of TEMPORARY rule(s) adopted on 4/29/91 TE
5/1/91 (Date)
by the Board of Parole & Post-Prison Supervision
(Department) (Division)
to be effective May 1, 1991 through October 20, 1991
(Date) (Date)

The within matter having come before the Board of Parole and Post-Prison Supervision after
(Department) (Division)
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 action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted:
(New Total Rules) _____

Amended:
(Existing Rules) 255-10-015, 255-20-005, 20-010, 20-015, 255-30-015, 255-32-025,
255-35-022, 35-023, 35-030, 255-60-006, 60-008, 255-75-005,

Suspended:
(Rules Only) 75-070, 75-096, 255-92-025, 92-040, Exhibit D (Div. 35),
Exhibit K (Div. 75, 90 & 92), Exhibit L (Div. 92)

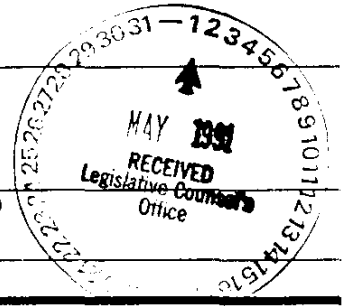
is Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 1st day of May, 19 91

This Order amends TEMPORARY Order No.(s): _____
filed: _____

NOTE: The Expiration date of this Order remains the same as the original Order.

By: Vern Foster
(Authorized Signer)
Title: Chairperson



Statutory Authority: ORS 144.050, 144.140 or _____

Chapter(s) _____, Oregon Laws 19 _____ or _____

House Bill(s) HB 2603, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: The rules are amended to change the number of Board Members required to review and decide various types of actions pursuant to House Bill 2603.

Emergency Justification Attached: Do you intend to adopt this rule Permanently? YES NO
If so, have you filed Notice of Proposed Rulemaking for publication in the Oregon Bulletin? YES NO

For Further Information Contact: Cindy Burgess Phone: 378-2334
(Rule Coordinator)

RECEIVED

MAY 18 1991

BEFORE THE
OREGON STATE BOARD OF PAROLE

SECRET DATE

In the Matter of the Temporary)
Amendment of Rules)
Governing the Board of Parole)
)

STATEMENT OF JUSTIFICATION
AND NEED

The Board of Parole is temporarily amending the above referenced rules in order to specify the number of Board members necessary to make particular types of decisions. House Bill 2603 was signed by the governor on April 30, 1991 and an emergency was declared to exist. These changes are required because there are vacancies on the Board which have not been filled due to budget considerations and Ballot Measure 5. Because the work of the Board must continue without interruption, the temporary rule amendments are needed because a failure to act promptly will result in serious prejudice to the public interest.

- (a) Statutory Authority : ORS Chapter 144, ORS 144.025, 144.005, 144.035, 144.050, 144.140
- (b) Need for Rules : To provide for a Board of fewer than five members and for rules regarding the number of members and votes necessary to conduct the work of the Board.
- (c) Documents Relied Upon : ORS Chapter 144, OAR Chapter 255, House Bill 2603

5-1-91
Date

Blum Heath
Chairperson, Board of Parole & Post-Prison Supervision

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:

Reduces General Fund Allocation to the Board by \$225,000 for 1991-93 and \$240,000 for 1993-95.

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:

Reduces General Fund Expenditure of Board by \$225,000 for 1991-93 and \$240,000 for 1993-95.

Organizational Impact: Reduces the number of Board members from 5 to 3 by July 1, 1992.

Economic Impact: None

Reference for Data and Methods Used Regarding the Above:

House Bill 2603 and accompanying Fiscal Impact Statement
House Bill 5048 (Board's Budget Bill)

Prepared by: Jim Eckland

Agency: Board of Parole and
Post-Prison Supervision

Title: Executive Assistant

Date: 5/1/91

*Crossed out
means not
amended*

DIVISION 10

ORGANIZATION
ORS 144.005-144.035

Membership

255-10-005 (~~2/1/79; 5/31/85; 5/19/88; 11/1/89~~)

~~The Board of Parole and Post-Prison Supervision shall consist of those members appointed by the Governor pursuant to ORS 144.005.~~

Chairperson: Vice-Chairperson; Selection; Term

255-10-010 (2/1/79; 11/25/81, temporary; 5/19/82, 5/31/85, 5/19/88, repealed)

Chairperson; Vice-Chairperson; Powers and Duties

255-10-015 (2/1/79; 11/25/81, temporary; 5/19/82, 5/19/88; 5/1/91, temporary)

- (1) The Chairperson shall have the powers and duties established by law, and such powers and duties, in addition to those established by law, necessary for the performance of the office, as determined by the Governor. Such powers and duties shall include, but are not limited to:
 - (a) assigning Board members to panels and designating the presiding members in order to conduct hearings and reviews;
 - [(b)] serving as the presiding member when on a panel or a Full Board;
 - (c)](b) apportioning matters to the panels and Full Board for decision;
 - [(d)](c) reassigning matters to different panels when required by rule, law, or procedure;
 - [(e)](d) scheduling business meetings and establishing the agenda; and
 - [(f)](e) informing the sentencing judge, district attorney, sheriff, or arresting agency of the scheduled release of each prisoner (ORS 144.120 (6), 144.260).
- (2) The vice-chairperson shall have the powers and duties determined by the Governor to be necessary for the performance of the office.

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

255-10-020 (2/1/79; 5/19/88, repealed)

DIVISION 20

BUSINESS MEETING
ORS 144.025

Scheduling

255-20-005 (2/1/79; 5/31/85; 5/19/88; 5/1/91, temporary)

Business meetings shall be held as scheduled by the chairperson or upon the request of at least [three (3)] a majority of members of the Board.

Quorum

255-20-010 (2/1/79; 5/31/85; 5/19/88; 5/1/91, temporary)

A business meeting requires the presence of at least [three (3) voting] a majority of the voting members of the Board, one of whom shall be the chairperson, vice-chairperson or chairperson's designee.

Matters for Consideration; Majority Vote

255-20-015 (2/1/79; 5/31/85; 5/19/88; 5/1/91, temporary)

Business meetings shall consider matters relating to Board policy and administration presented by the chairperson or by Board members. [Three (3)] A majority of affirmative votes are required to make a Board decision at a business meeting.

Procedure

255-20-020 (5/19/88)

~~A business meeting under this Division is a public meeting as defined in ORS 192.610 to 192.690. Adequate public notice, public access, and public minutes are required.~~

When Full Board is Required; Procedures for Board Decision (ORS 144.035, 144.054)

255-30-015 (2/1/79; 5/31/85; 11/13/86, temporary; 12/2/86, temporary; 3/25/88, temporary; 5/19/88; 12/6/88; 11/1/89; 5/1/91, temporary)

- (1) Except as otherwise provided in this rule, [all prison term hearings shall be conducted by] a panel of two voting members of the Board shall conduct all prison term hearings and shall make the final decision.
- (2) [The following hearings may be conducted by a] A quorum of the Board may conduct the following hearings [, with final decision by] ; a quorum of the Board shall make the final decision in cases in which:
 - (a) [cases where the prisoner was sentenced] the court sentenced the prisoner under ORS 161.725 and 161.735 as a dangerous offender;
 - (b) [cases where] the Department of Corrections recommends an extension of more than two years in the prison term [is recommended] for misconduct;
 - [(c) whenever a panel lacks a quorum and is unable to come to a unanimous decision to set a prisoner's prison term, and a second panel is assigned to hear the case, and no quorum occurs in the second panel.]
- [(3) The following hearings may be conducted by a quorum of the Board with final decision by at least four members of the Board:]
 - [(a)](c) [cases where] the court ordered a [the] minimum sentence [imposed by a judge] pursuant to ORS 144.110 and the minimum exceeds the matrix range and the variations permitted a panel;
 - [(b)](d) [whenever] a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel [and a third vote];
 - [(c) whenever the panel recommends denying parole;]
 - [(d)](e) [whenever] a panel recommends a decision to set the prison term below a judicially set minimum sentence (A panel may uphold a judicial minimum.);
 - [(e)](f) [whenever] a panel recommends unsumming a unified range.
- (4) [The following hearings may be conducted by a] A quorum of the Board may conduct the following hearings; [with review of] the full Board shall make the final decision [by the full Board]:
 - (a) cases involving a prisoner sentenced to death for aggravated murder or life imprisonment for murder or aggravated murder;
 - (b) cases where the prisoner was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim.

- (c) when a panel recommends denying parole.
- (5) If a Board member is not present at a [Full Board] hearing, and statute or rule compels review [is compelled by statute or rule], or the vote may affect the outcome of the hearing, the Board member may vote administratively after reviewing the Board Review Packet and the handwritten Board Action Form with attached exhibits, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.
- (6) A panel of one Board member or of one Board member and one hearings officer may conduct prison term hearings for prisoners convicted of [Class C felonies] non-person-to-person crimes. In case of a panel consisting of one board member, another member shall vote after review of the record as provided in section 5 of this rule. A hearings officer may not participate on a panel in cases [where] in which, pursuant to ORS 144.110, a court imposed a [the] minimum sentence [imposed by a judge pursuant to ORS 144.110] that exceeds the matrix range and variations permitted a panel.
- (7) (a) If there is a division in a panel so that a decision is not unanimous, another Board member shall vote after review of the record as provided in section 5 of this rule.
- (b) If the original panel was made up of one board member, and the member voting after administrative review of the record disagrees with the decision, the matter shall be reassigned to a panel made up of the remaining Board members. If this second panel agrees with neither member of the original panel, the matter will be referred for hearing and decision before the full Board.

Procedures for Full Board Decisions

255-30-020 (2/1/79; 5/31/85; 11/13/86, temporary; 12/2/86, temporary; 3/25/88, temporary; 5/19/88, repealed)

Teleconference Hearing (ORS 144.035(5))

255-30-021 (5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89)

At the discretion of the chairperson, any hearing may be conducted by teleconference call.

Prisoner Appearance at Board Hearing (ORS 144.035(5), 144.120)

255-30-023 (5/19/88; 11/1/89; 2/20/90, temporary; 7/1/90)

- (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.

Purpose of Hearing

255-32-020 (5/31/85)

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

Manner of Hearing

255-32-025 (5/31/85; 5/19/88; 11/1/89; 1/16/91; 5/1/91, temporary)

- (1) The proceeding shall be conducted in the manner prescribed for a contested case hearing under ORS 183.310 to 183.550 except that:
 - (a) The prisoner shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and
 - (b) The prisoner shall have the right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the Board, at state expense.
- (2) If upon hearing all the evidence, the Full Board upon a unanimous vote of all [five] members finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole or work release and shall set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.
- (3) When a prisoner has a consecutive sentence for a crime other than aggravated murder, the parole release date for the consecutive sentence shall be determined at the time the Board determines a parole release date on the aggravated murder conviction.

Effect of Denying Relief Request

255-32-035 (5/31/85; 5/19/88)

If the Board finds that the prisoner is not capable of rehabilitation, the Board shall deny the relief sought in the prisoners petition. Not less than two years after the denial the prisoner may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.

Record/Notice

255-32-040 (5/31/85)

Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in Divisions 15 and 30 of these rules.

Consecutive Sentences: Referring a Case to the Full Board; Going Below the Range; Additional Consecutive Sentences (ORS 144.079, 144.783)
255-35-022 (11/25/81, temporary; 5/19/82; 5/31/85; 6/8/87, temporary; 6/18/87, temporary; 7/21/87, temporary; 12/16/87; 5/19/88; 7/1/90; 5/1/91, temporary)

- (1) When a panel recommends that a range be less than the sum of the terms under OAR 255-35-021, the case shall be referred to [the Full] a quorum of the Board.
- (2) The duration of imprisonment for consecutive sentences may be less than the sum of the terms under OAR 255-35-021, if the Board finds by [four] a majority vote [affirmative votes] that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security.
- (3) When additional sentences are imposed for crimes which took place during the period under consideration at a prior prison term hearing and the additional sentences are consecutive to the crimes already considered, the Board shall:
 - (a) conduct a de novo prison term hearing pursuant to the provisions of Division 30 for all the crimes. The unified range for the additional sentences and the sentences which were already considered shall be computed under the provisions of OAR 255-35-021; or
 - (b) conduct a hearing to consider only the additional consecutive sentences using base ranges for the additional crimes. The commencement date for the new prison term under this subsection shall be the parole release date set at the previous prison term hearing.
- (4) The provisions of section (3) of this rule apply only to crimes which occurred on or after July 11, 1987, unless one of the crimes involved is listed in OAR 255-35-021 (4).
- (5) If the Board votes to unsum the consecutive ranges at the beginning of the hearing, then a hearing under section (3) of this rule is not required, unless one of the crimes involved is listed in OAR 255-35-021 (4). The new crime will be considered as a principal range.
- (6) If one of the crimes involved is listed in OAR 255-35-021 (4) and is consecutive, then a de novo hearing under subsection (3)(a) of this rule must be conducted.
- (7) If a new crime is consecutive to crimes already considered, and is the most serious offense with the highest crime severity rating and/or longest sentence, a de novo hearing under subsection (3)(a) of this rule must be conducted.
- (8) When additional sentences are imposed for crimes which took place after the period considered at a prior prison term hearing and the additional sentences are consecutive to the crimes already considered, the matrix range for the additional crimes shall be established as if it were a new sentence. If the inmate has not yet been released on parole, the commencement date for the new crimes shall be the parole release date established at the previous prison term hearing.

Effect of Minimum Sentences on Prison Terms; Consecutive Minimum Sentences
(ORS 144.035(4), 144.110, 144.245, 144.783)
255-35-023 (5/31/85; 7/7/87, temporary; 12/14/87; 5/19/88; 4/5/90; 5/1/91,
temporary)

- (1) The Board shall not release a prisoner on parole until a judicially imposed minimum prison term has been served, except upon the affirmative vote of [four] a majority of members who have found that:
 - (a) the minimum term is not an appropriate penalty for the criminal offense; and
 - (b) the minimum term is not necessary to protect the public.
- (2) If at least [four members] a majority of the Board members have made the findings listed in section (1) of this rule, the Board shall establish a prison term using the guideline range and the standard variations allowed.
- (3) When there are consecutive minimum sentences and the Board finds that the combined minimums are not appropriate penalties for the criminal offenses involved and are not necessary to protect community security, the Board, by [four] a majority of concurring votes, may override one or more of the judicially imposed minimums and set a prison term which is less than the sum of the minimum terms.
- (4) The Board shall set a parole release date in accordance with OAR 255-35-013 or 255-35-014, and shall state the facts and reasons for its actions.
- (5) Notwithstanding subsection (3) of this rule, when the Board overrides a ORS 163.115 murder minimum, the vote must be unanimous.
- (6) The Board may not override ORS 161.610 gun minimums.
- (7) The Board may not override ORS 163.105 aggravated murder minimums.

Effect of Judicial Mandatory Minimum Sentences on Prison Terms Under 161.610
255-35-024 (5/31/85; 5/19/88, repealed)

Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date
(ORS 144.780-787)

255-35-025 (2/1/79; 5/1/80, temporary; 11/25/81, temporary; 5/19/82; 5/31/85;
5/19/88; 7/1/88; 4/5/90; 10/5/90, temporary; 1/16/91)

- (1) When the Board chooses to ~~set~~ a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the minimum initial prison term shall be 6 months and the maximum shall be as follows:
 - (a) Six months from the statutory good time date on a sentence of at least one year and less than three years;
 - (b) ~~Nine months from the statutory good time date on a sentence of three years and less than six years.~~

- (c) Twelve months from the statutory good time date on a sentence of six or more years.
- (2) On short sentences which call for an earlier release date than the guideline range indicates, the following shall apply:
- (a) Using the correct crime category for the principal crime, apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b), or (c) will fall and which will provide a fully applicable range.
- (b) For subsequent consecutive sentences use the base range unless the principal crime is one of those listed in OAR 255-35-021(4).
- (c) For example:

	<u>Sent.</u>	<u>GTD</u>	<u>(1)(c)</u>	<u>H/R</u>	<u>CC</u>	<u>Range</u>	<u>Use</u>
Robbery I	10 yr.	80 mo.-12 mos.=68		2	6	90-130	44-56
Theft I	5 yr.			2	1	6 - 6	<u>6- 6</u> 50-62

- (3) On sentences which are too short to fit within the matrix ranges for the correct crime category, the maximum prison term shall be one day prior to the good time date.

Parole Denial (ORS 144.120(4))
255-35-030 (2/1/79; 5/31/85; 5/19/88; 12/6/88; 5/1/91, temporary)

- (1) The Board with [four (4) affirmative votes] a unanimous vote of members may deny parole pursuant to ORS 144.120(4) when:
- (a) The offense of commitment included particularly violent or otherwise dangerous criminal conduct as defined by section 255-05-005(27);
- (b) The offense was preceded by two (2) or more Class A or Class B felony convictions; or
- (c) The prisoner's record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance such as to constitute a danger to the health or safety of the community.
- (2) A [two-member] panel may refer the matter to the Full Board with the recommendation that parole should be denied based on the criteria listed in subsection (1) of this section.
- (3) 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.

Variations From the Ranges for Aggravation or Mitigation: Statements for Record, Prior Disclosure to Prisoners
255-35-035 (2/1/79; 5/1/80, temporary; 8/15/80; 11/4/81, temporary; 5/19/82; 5/31/85; 5/19/88, repealed)

Resetting Pre-Guideline Parole Hearing Dates for Category 7 Offenders
255-35-040 (2/1/79; 5/31/85, repealed)

DIVISION 60

RELEASE TO POST-PRISON SUPERVISION OR PAROLE
AND EXIT INTERVIEWS

Exit Interviews; Parole Plan; and Psychiatric Records

(ORS 144.098, 144.125, 144.800)

255-60-006 (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85;
5/19/88; 11/1/89; 4/5/90; 5/1/91, temporary)

(1) At any time prior to ten days before a prisoner's scheduled release to post-prison supervision or parole, the Board on its own initiative or on the request of the Department of Corrections, may conduct an exit interview to review the prisoner's:

(a) release plan

(b) victim's statements, if any;

(c) PSR or similar report;

(d) psychiatric/psychological reports, if any;

(e) conduct while in confinement; and

(f) any other information relevant to the prisoner's reintegration into the community that may be submitted by the prisoner, the prisoner's attorney, the Department of Corrections or any other person.

(2) The procedures governing exit interviews shall be the same as the procedures for records, disclosure and notice outlined in Divisions 15 and 30.

(3) Two Board members shall conduct the interview and make decisions pursuant to OAR 255-30-015(6)-(7).

Release Plans (ORS 144.096, 144.125, 144.185)

255-60-008 (4/5/90; 5/1/91, temporary)

(1) The Board shall examine the prisoner's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:

(a) employment;

(b) school, or other situation (e.g., retirement income);

(c) verifiable residence;

(d) a description of support services, program opportunities and treatment programs;

(e) prescribed medication;

- (f) recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
 - (g) level of supervision consistent with the prisoner's risk assessment classification; and
 - (h) a restitution and compensatory fine payment schedule.
- (2) Parole release may be deferred up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification of a satisfactory plan from the Department of Corrections.
 - (3) A prisoner requesting an out-of-state parole waives the ninety (90) day limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.
 - (4) Release to post-prison supervision may not be deferred. The following procedure shall apply:
 - (a) If the release plan which is submitted by the Department of Corrections at least 60 days prior to release, is deficient, it will be returned to the Department of Corrections with the Board's recommended modifications.
 - (b) The Department shall submit a revised plan to the Board not less than ten days prior to the prisoner's release.
 - (c) If the revised plan is not acceptable to the Board, the Board shall determine the provisions of the final plan prior to the prisoner's release.
 - (5) Two Board members shall review and approve the release plan in accordance with OAR 255-30-015(6)-(7).

Waiver of 90-Day Limitation; Deferral for Serious Misconduct

255-60-010 (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

Psychological or Psychiatric Reports (ORS 144.125. 144.223)

255-60-012 (4/5/90)

This rule does not apply to prisoner's whose only crimes are committed on or after November 1, 1989.

- (1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.
- (2) Pursuant to ORS 144.223, the Board may order a psychiatric/psychological evaluation of any prisoner anytime prior to release.

- (1) The parolee/offender is suffering from an emotional or psychological disturbance which makes the parolee/offender dangerous to self or others if left in the community. The emotional or psychological disturbance may be indicated by, but not limited to, threatening behavior in the form of:
 - (a) showing a present capacity to carry out any statements or threats of violence against the parolee/offender or the community; or
 - (b) The substantial duplication of circumstances and conduct which led to the initial incarceration; or
- (2) The parolee's/offender's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program, or other treatment programs); or
- (3) Upon release on parole or post-prison supervision, an existing probation is revoked, resulting in the prisoner's return to custody of the Department of Corrections for criminal activity which did not occur while on parole or post-prison supervision; or
- (4) The parolee/offender receives a new conviction or new commitment to the custody of the Department of Corrections for criminal activity which did not occur while on parole or post-prison supervision.

Hearing Requirement: Procedure (ORS 144.331(2), 144.343, 144.370,)
255-75-005 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
 5/19/88; 10/16/89; 5/1/91, temporary)

- (1) Before the Board can revoke parole or post-prison supervision, a revocation hearing shall be conducted.
- (2) Except in the cases set forth in OAR 255-75-015, the hearing shall be held within a reasonable time after the Board is notified of the alleged violations and reasonably near the place of the alleged violation or the place of confinement.
- (3) Before a Hearings Officer can hold an out of custody hearing, the parole and post-prison supervision officer responsible for supervising the parolee/offender must obtain a citation to appear from the Board.
- (4) For an in custody revocation hearing, the parole and post-prison supervision officer must request a non-bailable suspend and detain warrant from the Board.
- (5) One Board member may issue [A] a citation to appear or a suspend and detain warrant [requires three affirmative votes by the Board].

Method of Hearing
255-75-006 (11/4/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85;
 3/14/88, temporary; 5/19/88; 10/16/89)

Hearings may be conducted by teleconference. Person to person hearings shall be conducted by a Hearings Officer in the following situations:

5/1/91

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Revocation of Parole

Hearings Record

255-75-056 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89)

- (1) The hearings record shall include:
 - (a) a Hearings Report Summary, including tape of hearing;
 - (b) a written statement of alleged violations;
 - (c) supporting materials;
 - (d) a Notice of Rights; and
 - (e) the Order of Parole or Post-Prison Supervision.
- (2) The tape recording used in subsection (1)(a) of this rule shall be retained for two (2) years.

Record of Parole Revocation Hearing

255-75-060 (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

Ten-Day Period for Parolee's/Offender's Evidence and Exceptions

255-75-065 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89)

- (1) Within a reasonable time after the hearing, the Hearings Officer's report shall be provided to the parolee/offender.
- (2) Unless the right to respond is waived, the parolee/offender shall have [10] 7 days from the date the report is mailed to the parolee/offender to submit evidence and make written exceptions to the report for the Board's consideration.
- (3) If the right to respond is waived, the waiver shall be included in the Hearings Officer's report to the Board.

Final Action: Procedure

255-75-070 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/1/88; 10/18/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary)

- (1) The Board shall consider the Hearings Officer's report, and the parolee's/offender's evidence and exceptions. [A majority of the] The Board shall enter a decision, and the individual votes of the Board members shall be recorded in accordance with Exhibit K.
- (2) The Board may adopt or reject any or all the recommendations of the Hearings Officer. The final order of revocation shall indicate the findings adopted by the Board.
- (3) A copy of the final order of revocation shall be forwarded to the parolee/offender with notice of the right to administrative and judicial review.

- (8) Notwithstanding subsections 1-7 of this rule, the Board may choose to postpone rerelease on parole pursuant to Divisions 50 and 60 of this chapter.
- (9) Notwithstanding subsections 1-8 of this rule, the Board may choose to deny rerelease on parole pursuant to OAR 255-75-096.

Continuance on Parole or Supervision

255-75-080 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89)

If the Board finds that a parolee/offender has committed a violation of conditions which is sufficiently serious to require a revocation hearing and the time the parolee/offender has spent in custody pending final action on the revocation hearing is an adequate punishment for the violation, the Board may continue parole or post-prison supervision.

Authority of Revocation Panel to Set New Parole Release Date for Parole Violators

255-75-082 (11/4/81 - 5/2/82, temporary; 11/19/84, suspended; 2/28/85, repealed)

Parole Violators with No New Commitment; Action Required

255-75-085 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, suspended; 10/16/89, repealed)

Guidelines for Reparole

255-75-090 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 11/1/89, repealed)

Variation From Guidelines for Aggravation/Mitigation Permitted

255-75-095 (11/19/84, temporary; 2/28/85; 5/19/88; 7/1/88; 4/19/89, suspended; 10/16/89, repealed)

Denial of Rerelease Consideration

255-75-096 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary)

- (1) Upon a finding of aggravation pursuant to Exhibit E or Exhibit H, the Board may deny rerelease on parole and require the parole violator to serve to the statutory good time date or, in the case of aggravated murder, for life. This action requires the affirmative vote of [at least four voting] all members.
- (2) Denial of rerelease on parole requires a future disposition hearing.
- (3) In cases where setting a parole violator within the guidelines set forth in rule 255-75-079 would require the parole violator to serve to the end of the sentence, [four votes are] an affirmative vote of all members is not required.

Parole Summary; Active Supervision Review

255-92-025 (12/16/87; 11/1/89; 5/1/91, temporary)

- (1) Within fifteen (15) days after the parolee has completed a period of active supervision established by the Board, the supervising officer shall send to the Board a parole summary. The parole summary shall contain:
 - (a) an evaluation of the parolee's behavior;
 - (b) an update on the status of the parolee's restitution, compensatory fine, and attorney fee obligations, if any; and
 - (c) a recommendation that the parolee be removed from active supervision; or
 - (d) a recommendation that the parolee be continued on active supervision.
- (2) If the supervising officer recommends that active supervision be continued, supporting reasons for this recommendation shall be included in the parole summary.
- (3) As soon as the parole summary is received by the Board, [any three (3)] two Board members will conduct an active supervision review by administrative file pass to examine the parolee's record on active supervision.

Continued Active Supervision; Procedure

255-92-030 (12/16/87; 5/19/88; 7/1/88)

When continued active supervision is recommended by the supervising officer, the Board shall determine at the active supervision review if a continuance is appropriate. If the Board decides that continuing active supervision is appropriate, the Board shall:

- (1) use the guidelines set forth in Exhibit L to establish the length of the parolee's next period of active supervision; and
- (2) notify the parolee and the parole officer of its decision, the length of the parolee's next period of active supervision, and the reasons for continuing active supervision.

Removal From Active Supervision; Procedure

255-92-035 (12/16/87; 1/16/91)

- (1) When the Board decides to remove a parolee from active supervision, the Board shall:
 - (a) delete conditions which the parolee has been required to follow except the following conditions:
 - (A) offender shall obey all municipal, county, state and federal laws;
 - (B) offender shall not own, possess or be in control of any weapon;

- (C) if applicable, an offender convicted of a sex offense shall register his or her residency pursuant to ORS 181.517-519; [and]
- (b) issue a new parole order certifying inactive status.
- (2) A parolee shall be considered to be on inactive parole as of the date the parole order certifying inactive status is signed by the Board.

Bases for Reinstating Active Supervision; Procedure

255-92-040 (12/16/87; 5/19/88; 7/1/88; 4/19/89, temporary; 11/1/89; 1/16/91; 5/1/91, temporary)

- (1) Active supervision may be reinstated for the following reasons:
- (a) failure to obey all municipal, county, state and federal laws;
 - (b) ownership, possession, or control of any weapon;
 - (c) failure to register residency as provided in ORS 181.517-519;
 - (d) inactive parole is no longer in the best interests of the parolee or society.
- (2) When the Board receives information indicating that reinstatement on active parole supervision may be warranted pursuant to section (1) of this rule, two members of the Board shall review the parolee's conduct by administrative file pass to decide whether or not to cite the parolee to a show cause hearing.
- (3) After the show cause hearing, the Board shall notify the parolee of its decision. If the Board decides to reinstate active parole supervision, the Board shall also notify the parolee of the length of the parolee's next period of active supervision, and the reasons for reinstating active supervision.
- (4) Show cause hearings under this section shall be conducted under the same procedures as parole revocation hearings in Division 75.
- (5) If a parolee is on inactive parole and parole is revoked following a parole revocation hearing, in addition to any other sanctions imposed by the Board, when the parolee is released from custody the parolee will be reinstated on active supervision. The new period of active supervision will be set at the time the future disposition decision is made.
- (6) If a parolee is on active parole and parole is revoked following a parole revocation hearing, in addition to any other sanctions imposed by the Board, when the parolee is released from custody the parolee will be reinstated on active supervision. The new period of active supervision will be set at the the time the future disposition decision is made.
- (7) The new period of active supervision under this section shall be determined pursuant to the guidelines set forth in Exhibit L.

EXHIBIT D

GUIDELINE MATRIX
STANDARD VARIATIONS FROM THE RANGES UNDER RULE 255-35-035
(5/1/91, temporary)

CRIME CATEGORY	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
	11-9 Excellent	8-6 Good	5-3 Fair	2-0 Poor
1 (Panel)	3*	3	3	3
2 (Panel)	3	3	3	4
3 (Panel)	3	3	3	6
4 (Panel)	3	3	4	6
5 (Panel)	4	6	6	8
6 (Panel)	24	24	24	24
7 (Board)	36	36	36	36
8 (Board)	36	36	36	36

*All numbers represent standard variations in months.

The maximum variations allowed [for crime categories 1 through 6] are:

- (a) For a panel: two standard variations.
- (b) For a panel with a concurring vote (3 concurring votes): three times the standard variation.
- (c) For four (4) concurring votes: four times the standard variation.
- (d) For five (5) concurring votes after a hearing before the Board pursuant to OAR 255-30-015; five times the standard variation

[The maximum variations allowed for Category 7 and 8 crimes are :

- (a) For three (3) concurring votes: the standard variation of 36 months.
- (b) For four (4) concurring votes: two times the standard variation of 36 months (72 months).
- (c) For five (5) concurring votes: three times the standard variation of 36 months (108 months).]

The Board may deny parole pursuant to OAR 255-35-030.

EXHIBIT K

VOTING REQUIRMENTS FOR PAROLE REVOCATION CASES
(5/1/91, temporary)

[All] Board actions require [three concurring votes.] the number of concurring votes set forth in 1-17 below. Any time a vote is recorded in disagreement, additional votes are required to make concurring votes.

VOTES:

- 1 1. Suspend and Detain (abscond, major technical, new crime, persistent misbehavior) (ORS 144.050, 144.331, 144.370).
- 1 2. Cite to Appear at parole violation hearing (ORS 144.040, 144.331(2)).
- 1 3. Withdraw Suspend and Detain Order.
- 1 4. Return (absconder, new crime, no basis to continue) (ORS 144.050, 144.331(1), 144.108).
- 2 5. Adopt findings of hearings officer (ORS 144.040, 144.343).
- 2 6. Continue (ORS 144.343).
- 2 7. Defer formal decision regarding disposition.
- 2 8. Adopt findings of hearings officer; reject recommendations (ORS 144.040, 144.343).
- 2 9. Revoke (ORS 144.343, 144.345).
- 10.
- 1 11. Reprimand (ORS 144.343).
- 2 12. Modify Conditions (state reasons) (ORS 144.102-106, ORS 144.270, 144.343).
- 2 13. Extend supervision period six months (ORS 144.310).
- 1 14. No action, report noted.
- 1 15. Discharge (ORS 144.305, 144.310).
- 1 16. Close Interest
- 2 17. Change Supervision from Active to Inactive (ORS 144.305).

EXHIBIT L

Guidelines for Extending Active Supervision
After the Initial 36 Month Period
of Supervision is Completed
Under Division 92

(ORS 144.305, OAR 255-92-020, 255-92-030, 255-92-040)
(5/1/91, temporary)

(shown in months)

<u>Crime Severity Rating</u>	<u>Criminal History/Risk Assessment Score</u>			
	11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
Category 1	06	06	06	12
Category 2	06	06	12	12
Category 3	06	12	12	18
Category 4	12	12	18	18
Category 5	12	18	18	24
Category 6	18	18	24	24
Category 7	24	24	24	24

These are only guidelines. If [three members] a majority of the Board [vote] votes to go outside the guidelines, the period of active supervision shall be any time period determined by the Board.

eff

7-1-91

Sent - mailed
6/27/91

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

RECEIVED
JUN 27 1991

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of TEMPORARY rule(s) adopted on 6/19/91 (Date)

by the Board of Parole & Post-Prison Supervision (Department) (Division)

to be effective July 1, 1991 (Date) through December 1, 1991 (Date)

The within matter having come before the Board of Parole & Post-Prison Supervision (Department) (Division) after

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

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

Adopted:
New Total Rules) _____

Amended:
Existing Rules) 255-37-005, 37-010, 37-025, 37-030, 255-38-005, 38-010

Suspended:
Rules Only) _____

is Administrative Rules of the Board of Parole & Post-Prison Supervision (Department) (Division)

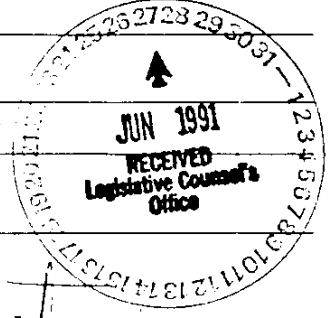
DATED this 27th day of June, 19 91

By: William L. Faust (Authorized Signer)

Title: Chairperson

This Order amends TEMPORARY Order No. (s): _____

NOTE: The Expiration date of this Order remains the same as the original order.



Statutory Authority: ORS 144.226, 144.228, 144.232, 144.050, 144.140 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) SB215, 19 91 Legislature

Subject Matter: Amendments under Senate Bill 215 provide that examinations of dangerous offenders may be conducted by psychologists as well as psychiatrists.

Notice of Need Attached: Emergency Justification Attached: Do you intend to adopt this rule Permanently? YES NO
If so, have you filed Notice of Proposed Rulemaking for publication in the Oregon Bulletin? YES NO

For Further Information Contact: Cindy Burgess (Rule Coordinator) Phone: 378-2334

BEFORE THE
OREGON STATE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Temporary)
Amendment of Rules)
Governing the Board of Parole)

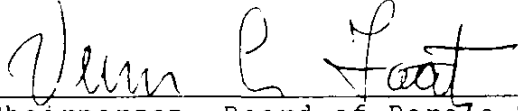
STATEMENT OF JUSTIFICATION
AND NEED

The Board of Parole needs to temporarily amend the above referenced rules in order to comply with Senate Bill 215 which provides that the Board may order psychological, as well as psychiatric, evaluations for dangerous offenders. Senate Bill 215 is effective on July 1, 1991. If the Board does not amend Divisions 37 and 38 of its rules immediately, the Board will not have the flexibility to order the best evaluation under the circumstances of the individual prisoner's case, given the available resources. Failure to immediately amend Divisions 37 and 38 will result in serious prejudice to the public interest.

- (I) Statutory Authority: ORS Chapter 144, ORS 144.050, 144.140, 144.226, 144.228, 144,232.
- (II) Need for Rules: To provide that the Board may order either a psychological or a psychiatric evaluation for dangerous offenders so that the Board can best utilize budgeted resources and order the evaluation that is most informative to the Board in the particular case.
- (III) Documents Relied Upon: ORS Chapter 144, OAR Chapter 255, Senate Bill 215, ORS 161.725, 161.735.

June 27, 1991

Date


Chairperson, Board of Parole &
Post-Prison Supervision

FISCAL ANALYSIS OF RULE PER ORS 183.335

Effect on Revenue (By Fund): Current Biennium: Future Biennium:

Effect on Expenditures (By Fund): Current Biennium: Future Biennium:

713 Psych Svcs - * 20,400 \$ 21,490

Organizational Impact:

The Board will continue to operate as a separate entity to conduct evaluations of dangerous offenders. Funding is transferred to Board for ASB.

Economic Impact:

Reference for Data and Methods Used Regarding the Above:

See SB 515 + Fiscal Impact Statement

Prepared by: JR Eckhart

Agency: Corrections NR 12

Title: Eric Asst

Date: 6/27/91

DIVISION 37

DANGEROUS OFFENDERS

(ORS 144.226, 144.228, 144.232)

For Crimes Occurring on or after November 1, 1989

Release Hearings

255-37-005 (11/1/89; 7/1/91, temporary)

- (1) Within six (6) months after commitment to the custody of the Department of Corrections of any person sentenced as a dangerous offender, the Board shall set a date for a release hearing which shall be no later than ten (10) days prior to the date the offender is eligible for release on post-prison supervision.
- (2) A person sentenced as a dangerous offender for felonies committed on or after November 1, 1989 is eligible for release on post-prison supervision:
 - (a) after the Board finds the condition which made the prisoner dangerous is absent or in remission; and
 - (b) after having served the presumptive sentence set forth on the judgment order.
- (3) When the Board finds the dangerous condition is not absent or in remission, reviews will be scheduled at least once every two (2) years until the condition is absent or in remission at which time a release date will be set.
- (4) If after finding the dangerous condition is absent or in remission, the Board later has reasonable cause to believe the condition has returned, the Board may order [a psychiatric] an evaluation pursuant to ORS 144.226 and shall conduct a new release hearing.
- (5) If, at the release hearing or at any subsequent review, the Board determines the condition is absent or in remission, the Board shall order release to post-prison supervision subject to ORS 144.096, 144.098 and 144.102, regarding supervision conditions and review of release plans, and subject to eligibility for release.
- (6) At any hearing or review, the Board may consider:
 - (a) the written report of the examining psychologist or psychiatrist;
 - (b) a written report to be made by the executive officer of Department of Corrections institution in which the prisoner has been confined;
 - (c) any other information regarding the prisoner that the Board finds relevant.

[Psychiatric] Evaluations

253-37-010 (11/1/89; 7/1/91, temporary)

- (1) Within sixty (60) days of the last day of the presumptive sentence and at least every two years thereafter, the Board shall order [from the Oregon State Hospital] a complete [physical,] mental and psychological or psychiatric examination of the offender.
- (2) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other information the psychologist or psychiatrist believes will aid the Board in determining whether the examined person is eligible for release.
- (3) The report of the psychologist or psychiatrist shall:
 - (a) include a statement as to whether or not the dangerous offender has any mental or emotional disturbance, deficiency or condition predisposing him/her to the commission of any crime to a degree rendering the offender a menace to the health or safety of others;
 - (b) state progress or changes in the condition of the examined offender;
 - (c) contain recommendations for treatment or medication that would assist the offender in performing satisfactorily in the community upon release;
 - (d) be filed with the Board within 40 days after the examination;
 - (e) be certified and sent to the offender, the offender's attorney, and to the institution superintendent.

Department of Corrections Written Reports

255-37-015 (11/1/89)

The written report of the executive officer of the Department of Corrections, which the Board shall review at the release hearing, shall contain:

- (1) a detailed account of the offender's conduct while confined;
- (2) All infractions of rules and discipline, the circumstances, and the punishment imposed;
- (3) extent to which the offender has responded to efforts made in the institution to improve his/her mental and moral condition;

- (4) a statement as to the person's present attitude towards society, the sentencing judge, the district attorney, and the arresting police officer;
- (5) a statement as to the offender's present attitude towards his/her previous criminal career;
- (6) the industrial record, showing average number of hours worked per day and the nature of the occupations;
- (7) a recommendation as to the kind of work, if any, the person is best fitted to perform and at which he/she is most likely to succeed upon leaving the institution.

Request for Review Prior to Release Hearing Date
255-37-020 (11/1/89)

- (1) Notwithstanding subsection 1 of 255-37-005, a prisoner sentenced as a dangerous offender under ORS 161.725 and 161.735 may, if the prisoner can present evidence that his/her dangerous condition may be absent or in remission, request a release hearing prior to the earliest time the prisoner is eligible for release to post-prison supervision or a two year review.
- (2) The Board shall review the request for a release hearing by administrative file pass.
- (3) If Board finds, based upon the request and the information therein, there is reasonable cause to believe the dangerous condition is absent or in remission, the Board shall conduct a release hearing as soon as reasonably convenient.
- (4) If the Board finds there is not reasonable cause to believe the dangerous condition is absent or in remission, the prisoner's condition will be reviewed at his originally scheduled release hearing pursuant to OAR 255-37-005(1).

The Release Hearing Packet
255-37-025 (11/1/89; 7/1/91, temporary)

The Post Prison Supervision Release Hearing Packet shall contain:

- (1) institution face sheet;
- (2) all prior Board Action Forms;
- (3) [Oregon State Hospital] psychological or psychiatric evaluations, and reports pursuant to ORS 144.226 to ORS 144.228
- (4) documents listed in OAR 255-37-005(5);
- (5) correspondence;
- (6) field parole analysis report or report of similar content; and
- (7) court orders.

Post-Prison Supervision

255-37-030 (11/1/89; 7/1/91, temporary)

- (1) A dangerous offender released to post-prison supervision prior to the sentence expiration shall serve the remainder of the sentence term imposed under ORS 161.725 and 161.735 on post-prison supervision.
- (2) The Board of Parole and Post-Prison Supervision may return an offender for a period of 180 days as a sanction for any supervision violation. Notwithstanding ORS 137.010 and the rules of the State Sentencing Guidelines Board, the sanction may be imposed repeatedly for subsequent violations during the term of post-prison supervision.
- (3) The Board may at any time require the offender to submit to [a psychiatric] an examination as provided in ORS 144.226. If the Board finds that the condition that made the offender dangerous is no longer in remission or has otherwise returned, the Board shall return the offender to prison for an indefinite period of time.
- (4) An offender returned to prison is entitled to periodic reviews once every two years as provided in 255-37-005.

DIVISION 38

DANGEROUS OFFENDERS
(ORS 144.226, 144.228)

Parole Consideration Hearing Instead of a Release Date; Reviews

255-38-005 (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85; 5/19/88; 7/1/91,
temporary)

- (1) Notwithstanding the provisions of Division 60, the Board shall set a date for a parole consideration hearing instead of an initial release date for a person sentenced under ORS 161.725 and 161.735 as a dangerous offender.
- (2) The Board shall set a date for a parole consideration hearing pursuant to the provisions of Division 35, within six (6) months after commitment to the custody of the Department of Corrections.
- (3) The date set for parole consideration shall be the date upon which the prisoner would otherwise be set for parole release.
- (4) If the condition which made the prisoner dangerous is still present on the parole consideration hearing date, reviews will be scheduled at least once every two (2) years until the condition is absent or in remission.
- (5) The Board shall not set a release date unless the psychological or psychiatric report reveals that the condition which made the prisoner dangerous is absent or in remission. The report required under this subsection shall be made within two (2) months of the date of its consideration.
- (6) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other pertinent data. The evaluation should include recommendations for treatment or medication that would assist the prisoner in performing satisfactorily in the community upon release.
- (7) If, at the parole consideration hearing or at any subsequent review, the condition is determined to be absent or in remission, the Board shall order parole release subject to the provisions of 144.125.
- (8) At any hearing or review, the Board shall consider:
 - (a) the written report of the examining psychologist or psychiatrist as defined by ORS 144.226 (1) and (2);
 - (b) a written report to be made by the executive officer of the penal or correctional institution in which the prisoner has been confined pursuant to the standards set forth in ORS 144.228(2)(b); and
 - (c) all other information available regarding the prisoner.

- (9) Notwithstanding the above, a prisoner sentenced as a dangerous offender under ORS 161.725 and 161.735 may, if the prisoner believes that he is no longer dangerous, request a parole consideration hearing prior to the earliest time the prisoner is eligible for parole or a two year review.
- (10) The Board shall review the request pursuant to subsection (9) of this section by administrative file pass. Should the Board find, based upon the request and the information therein, there is a reasonable cause to believe the dangerous condition is in remission, the Board shall conduct a review as soon as reasonably convenient.

The Parole Consideration Hearing Packet
255-38-010 (5/19/88; 7/1/91, temporary)

The Parole Consideration Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) [Oregon State Hospital] psychological or psychiatric evaluations, and reports pursuant to ORS 144.226 to ORS 144.228
- (4) documents listed in OAR 255-38-005(8);
- (5) correspondence;
- (6) field parole analysis report; and
- (7) court orders.

10-15-91

OK

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

RECEIVED
15 OCT 1991

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of TEMPORARY rule(s) adopted on October 7, 1991
(Date)

by the Board of Parole & Post-Prison Supervision
(Department)

to be effective October 15, 1991 through April 14, 1992
(Date) (Date) *CJB*

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)

I 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 action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted:
New Total Rules) 255-75-074

Repealed:
Existing Rules) 255-75-015, 255-75-072, 255-75-075

Rescinded:
Total Rules Only) _____

Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 15th day of October, 19 91

This Order amends TEMPORARY Order No.(s): _____

By: Vern L. Laatz
(Authorized Signer)

NOTE: The Expiration date of this Order remains the same as the original order.

Title: Chairperson

Statutory Authority: ORS ORS 144.050, 144.140, 144.345 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) HB2604, 19 91 Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Automatic Revocation of Parole or post-prison supervision when an offender has been sentenced to prison on an additional crime.

Need Attached: Emergency Justification Attached: Do you intend to adopt this rule Permanently? YES NO
If so, have you filed Notice of Proposed Rulemaking for publication in the Oregon Bulletin? YES NO

For Further Information Contact: Cindy Burgess Phone: 378-2334
(Rule Coordinator)

RECEIVED

BEFORE THE OREGON STATE

BOARD OF PAROLE AND POST-PRISON SUPERVISION 15 8 1991

In the Matter of the Temporary)	
Amendment of Rules Governing the	)	STATEMENT OF JUSTIFICATION
Board of Parole & Post-Prison	)	AND NEED
Supervision)	

The Board of Parole & Post-Prison Supervision has temporarily amended the above referenced rules in order to comply with House Bill 2604 which provides that parole or post-prison supervision shall automatically terminate upon a sentence to an additional prison term. The Board needs to immediately adopt rules to implement this statute because it became effective September 29, 1991. Failure to immediately adopt rules will result in serious prejudice to the public interest because the law could be implemented in various ways by parole officers and hearing officers and the Board.

Statutory Authority: ORS Chapter 144, 144.050, 144.140, 144.345

Need for Rules: The 1991 Legislature passed House Bill 2604 which provides for automatic termination of parole or post-prison supervision on the date of a sentence order to an additional prison term. This bill eliminates the need for a pro forma violation hearing. These rules are needed to permit the implementation of this statute and to give parole officers, hearings officers and the Board guidelines on when and how the law will be used.

Documents Relied Upon: ORS Chapter 144, OAR chapter 255, House Bill 2604, Interstate Compact Rules, Boulder v. Parke, 791 SW2d (1990), Alevras v. Neubert, 727 F. Supp 852 (SDNY 1990), Witzke v. Withrow, 702 F. Supp 1338 (WD Mich 1988), State ex rel Bertrand v. Hunt, 308 So 2d 760 (La 1975), Pickins v. Butler, 814 F2d 237 (5th Cir), cert. denied 484 US 924 (1987), Black v. Romano, 471 US 606 (1985).

Date: October 15, 1991

Deann L. Laatz

 Chairperson
 Board of Parole and
 Post-Prison Supervision

Method of Hearing

255-75-006 (11/4/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85;
3/14/88, temporary; 5/19/88; 10/16/89)

Hearings may be conducted by teleconference. Person to person hearings shall be conducted by a Hearings Officer in the following situations:

- (1) the alleged violations are contested and the parolee/offender or the parolee's/offender's attorney shows that the credibility of the witness, including the observation of the witness's demeanor would be necessary;
- (2) physical exhibits are to be part of the record and viewing the exhibits would be essential;
- (3) there are unusual circumstances not covered by this section, to be determined at the discretion of the Hearings Officer; or
- (4) when circumstances dictate that hearings cannot be conducted by teleconference (i.e., no telephone available for hearings in the confining facility).

Designated Representative Conducts Hearing (ORS 144.331, 144.343)

255-75-007 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
10/16/89)

- (1) The Board's designated representative shall conduct the revocation hearing.
- (2) "Designated representative" shall include those persons designated by the Department of Corrections or the Board of Parole and Post-Prison Supervision as Hearings Officers.

Locations of Hearing

255-75-008 (11/19/84, temporary, expired)

Board Action Upon Notification of Alleged Parole Violation:

Criteria for; Release of Parolee Pending Hearing

255-75-010 (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

When Parolee/Offender in Another Jurisdiction: Return

255-75-015 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
5/19/88; 10/16/89; 10/15/91, temporary)

- (1) The Board may suspend parole or post-prison supervision and may order the parolee's/offender's return to prison in Oregon without first conducting a hearing when:
 - (a) the parolee/offender has left the state to which the parolee/offender was released on parole or post-prison supervision without permission, and is in custody in another jurisdiction;

- (b) the parolee/offender is in custody in another correctional facility;
 - (c) the parolee/offender has absconded from supervision and the parolee's/offender's whereabouts are unknown; or
 - (d) the parolee/offender has been convicted of a new crime.
- (2) Except as otherwise provided by statute or rule, [A]after the parolee/offender is returned to prison in Oregon, the Board or a designated representative shall conduct a revocation hearing. [parolee/offender shall be given a revocation hearing.]

Rights of a Parolee at a Formal Hearing

255-75-020 (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

Rights at Formal Hearing

255-75-025 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89)

- (1) The parolee/offender shall be provided with a written notice of the hearing at least three (3) working days prior to the hearing.
- (2) The hearing notice will include:
 - (a) a Notice of Rights;
 - (b) a written statement of alleged violations; and
 - (c) any documents or evidence which form the basis of the alleged violations.
- (3) The parolee/offender may elect to waive the three working day notification period prior to the hearing and begin the hearing immediately.
- (4) The Hearings Officer shall tape the parolee's/offender's verbal statement waiving the three working day notification period.

Waiver of Hearing

255-75-026 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 12/?/91)

- (1) In all cases, the parolee/offender may waive the right to a hearing by signing a Notice of Rights form.
- (2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that he/she violated [there has been a violation of] the conditions in whole or in part and that the Board may impose a sanction.

Ten-Day Period for Parolee's/Offender's Evidence and Exceptions

255-75-065 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
5/19/88; 4/19/89, temporary; 10/16/89; 10/15/91)

- (1) Within a reasonable time after the hearing, the Hearings Officer shall provide his/her report [Hearings Officer's] report [shall be provided] to the parolee/offender.
- (2) Unless the parolee/offender waives the right to respond [is waived], the parolee/offender shall have 10 days from the date the Hearings Officer mails the report [is mailed] to the parolee/offender to submit evidence and make written exceptions to the report for the Board's consideration.
- (3) If the parolee/offender waives the right to respond [is waived], the Hearings Officer shall include the waiver [shall be included] in the Hearings Officer's report to the Board.

Final Action: Procedure

255-75-070 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
5/19/88; 7/1/88; 10/18/88; 4/19/89, temporary; 10/16/89; 5/1/91,
temporary; 10/15/91)

- (1) The Board shall consider the Hearings Officer's report, and the parolee's/offender's evidence and exceptions. [A majority of the] The Board shall enter a decision, and shall record the individual votes of the Board members [shall be recorded] in accordance with Exhibit K.
- (2) The Board may adopt or reject any or all the recommendations of the Hearings Officer. The final order of revocation shall indicate the findings adopted by the Board.
- (3) A copy of the final order of revocation shall be forwarded to the parolee/offender with notice of the right to administrative and judicial review.

Rerelease Order (144.395, 144.346)

255-75-072 (4/19/89, temporary; 10/16/89; 10/15/91, temporary)

- (1) At the time of the revocation decision, the Board shall make an order concerning rerelease [shall be made].
- (2) In the rerelease order, the Board may:
 - (a) continue parole or post-prison supervision pursuant to 255-75-075 or 255-75-080; or
 - (b) set the rerelease date in accordance with rule 255-75-079; or
 - (c) defer the rerelease decision pending a future disposition hearing.
- (3) If the Board automatically revokes parole or post-prison supervision pursuant to ORS 144.345(2), the Board shall administratively order rerelease upon notification of the new sentence.

Additional Sentences Result in Revocation Without Hearing (144.345(2))
255-75-074 (10/15/91, temporary)

- (1) The Board shall automatically revoke parole or post-prison supervision without a hearing, pursuant to ORS 144.345(2), when it receives notification that an offender is serving a new sentence in the Department of Corrections' custody or its counterpart in another jurisdiction.
- (2) The Board shall set a rerelease date pursuant to OAR 255-75-072, except that the Board shall not set a rerelease date that is later than the release date of the new sentence unless it conducts a future disposition hearing.
- (3) The sanction for the violation shall begin on the date of sentencing.
- (4) The Board shall add the inoperative time to the sanction, which it shall count from the date the Board issued its arrest and detention warrant to the warrant confirmation date. The Board shall forward the dates to the Department of Corrections for use in recalculating the sentence good time and expiration date.
- (5) Notwithstanding ORS 144.345(2) and this section, the supervisory authority shall immediately notify the Board of any alleged criminal activity.

Parolees/Offenders Convicted of New Crime in Another Jurisdiction
255-75-075 (2/1/79; 3/14/88, temporary; 5/19/88; 4/19/89, temporary;
10/16/89; 10/15/91, temporary)

- (1) If a parolee/offender has violated parole or post-prison supervision [as a result of a conviction of a new crime in another jurisdiction and] because the court in another jurisdiction has sentenced him or her [has been sentenced] to a prison term [in prison], the Board may:
 - [(1)](a) suspend parole or supervision and, depending upon the crime seriousness of the original and the new offense, may order the parolee/offender's [returned] return to Oregon for a revocation hearing after serving the new sentence; or
 - [(2) if the parolee/offender has not absconded from supervision, continue parole or post-prison supervision to the prison sentence in the other jurisdiction in order to consolidate jurisdiction over the parolee/offender and allow the Oregon sentence to run concurrently. Oregon supervision will resume upon release from custody if the sentence has not expired.]
 - (b) automatically revoke parole or post-prison supervision and order that the violation sanction shall run concurrently with the other jurisdiction's sentence.
- (2) If the Oregon sentence has not expired, Oregon supervision shall resume either in the other jurisdiction under Interstate Compact or in Oregon. If the Board cannot arrange supervision under Interstate Compact, the offender shall report to Oregon for supervision.

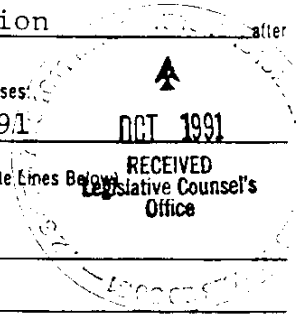
**CERTIFICATE AND ORDER
FOR FILING
PERMANENT
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on October 7, 1991
(Date)
by the Board of Parole & Post-Prison Supervision
(Department) (Division)
to become effective October 15, 1991
(Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)
all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: June 1, 1991

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



Adopted:
(New Total Rules) _____

Amended:
(Existing Rules) 255-05-005, 10-015, 20-005, 20-010, 20-015, 25-005, 25-010,
30-015, 30-024, 32-025, 35-022, 35-023, 35-030,
60-006, 60-008, 75-005, 75-065, 75-070, 75-096, 92-025,
92-035, 92-040, Exhibit D, Exhibit K, Exhibit L.

as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 15th day of October, 1991

By: *Vern L. Lutz*
(Authorized Signer)
Title: Chairperson

Statutory Authority: ORS 144.005, 144.025, 144.035, 144.050, 144.140, 144.079, 144.783, or
144.305, 144.120, 137.320, 137.370, 144.343

Chapter(s) _____ Oregon Laws 19 _____ or
House Bill(s) 2603, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: Amends rules to specify the number of Board members necessary to make particular types of decisions, elaborates on and clarifies rules on adjusted commitment (inception) date and credit for time served, revises rules regarding the definition and conditions of inactive parole, corrects error in rule regarding waiver of prison term hearing.

For Further Information Contact: Cindy Burgess Phone: 378-2334
(Rule Coordinator)

BEFORE THE OREGON STATE

BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Permanent)
Amendment of Rules Governing the) STATEMENT OF JUSTIFICATION
Board of Parole & Post-Prison) AND NEED
Supervision)

The Board of Parole & Post-Prison Supervision permanently amended the above referenced rules in order to:

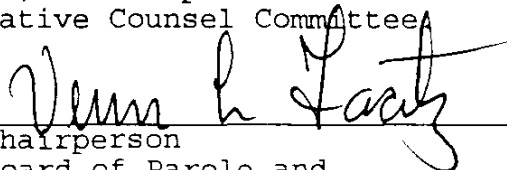
- (1) specify the number of Board members necessary to make particular types of decisions, pursuant to House Bill 2603 which was signed by the governor on April 30, 1991;
- (2) further elaborate on the rules regarding the adjusted commitment (inception) date and credit for time served in order to make the rules more clear to those affected;
- (3) revise the rules regarding the definition and conditions of inactive parole pursuant to ORS 144.305 and in light of the extent and availability of Department of Corrections resources;
- (4) correct error in the rule regarding waiver of prison term hearings as requested by Legislative Counsel Committee;
- (5) change passive voice sentences into active voice.

Statutory Authority: ORS Chapter 144, ORS 144.005, 144.025, 144.035, 144.050, 144.140, 137.320, 137.370, 144.079, 144.783, 144.305, 144.120, 144.343.

Need for Rules: To provide for a Board of fewer than five members and for rules regarding the number of members and votes necessary to conduct the work of the Board. To make the rules correct and clear to those affected. To provide reasonable criteria for inactive parole taking into account the extent and availability of correctional resources.

Documents Relied Upon: ORS Chapter 144, OAR chapter 255, House Bill 2603, Minutes of the Committee on Inactive Supervision, July 27, 1990 Report of the Legislative Counsel Committee

Date: October 15, 1991


Chairperson
Board of Parole and
Post-Prison Supervision

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183.335

ECONOMIC AFFECT ON THE BOARD:

Reduces General Fund Allocation to the Board by \$225,000 for 1991-93 and \$240,000 for 1993-95.

Reduces General Fund Expenditure of Board by \$225,000 for 1991-93 and \$240,000 for 1993-95.

ECONOMIC AFFECT ON OTHER AGENCIES:

Department of Corrections Community Services Budget for 1991-93 reveals a \$6,198,843 reduction from its 1989-91 budget and the rules relating to inactive parole are designed to take that reduction into account.

ECONOMIC AFFECT ON LOCAL GOVERNMENT:

None known. Information unavailable.

ECONOMIC AFFECT ON IDENTIFIED PUBLIC:

None known. Information unavailable.

SIGNIFICANT ECONOMIC AFFECT ON BUSINESSES:

None known. Information unavailable.

References for Data and Methods Used Regarding the Above:

House Bill 2603 and accompanying fiscal impact statement.
House Bill 5048 (Board's Budget Bill)

Department of Corrections, Community Services Division 1989-91 and 1991-93 Budgets, Senate Bill 5541.

Prepared by: Cindy J. Burgess Date: 10/15/91
Title: Rules Coordinator

DIVISION 5

DEFINITIONS

This rule has been renumbered.

Definitions

255-05-005 (5/19/88; 12/6/88; 11/1/89; 10/5/90; 10/15/91)

- (1) "Abscond": Unauthorized absence from parole or post-prison supervision.
- (2) "Active Community Supervision": A period of supervision in the community, requiring the supervising officer's regular contact and monitoring [by the supervising officer] to assure that the supervisee complies with conditions of parole or post-prison supervision [are being met], [that the supervisee] has committed no new crimes and [to assure repayment of] has paid restitution, attorney fees, and compensatory fines, if required.
- (3) "Active Supervision": Supervision requiring the supervising officer's regular contact and monitoring [by the supervising officer] to assure continued compliance with the conditions of parole. (Div.92)

"Active Supervision" shall not include:

 - (a) the period of confinement in local, state, or federal correctional facilities during the parole;
 - (b) the period of time between the suspension of parole and the date parole is continued;
 - (c) inactive parole; (Div. 92)
 - (d) involuntary commitment to a state or federal psychiatric facility.
- (4) "Aggravation": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1.
- (5) "BAF": A Board order after a decision called a Board Action Form.
- (6) "Base Range": The range for each crime category reflected in Exhibit C under the "excellent" column.
- (7) "Board": Board of Parole and Post-Prison Supervision.
- (8) "Board Review Packet": The information the Board shall consider at the inmate's hearing. [The contents of the packet shall be listed in e] Each of the Divisions which establishes a hearing shall list the contents of the packet.
- (9) "Compensatory Fines": A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). The court may award [C] compensatory fines [may be awarded] in addition to restitution.
- (10) "Correctional Facility": Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order.

- "Correctional Facility" includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect or after a finding of guilty except for insanity.
- (11) "Crime Severity Rating": A classification from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibit A.
- (12) "Crime Spree": A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.
- (13) "Date of Return": The date another in-state or out-of-state jurisdiction physically returns the prisoner [is physically returned to the custody of] to the Department of Corrections' custody following a hold [in another in-state or out-of-state jurisdiction].
- (14) "De Novo Hearing": A new initial prison term hearing, required when a court orders [there are] additional consecutive sentences for crimes which occurred prior to the first prison term hearing.
- (15) "Escape":
(a) the unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;
(b) includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;
(c) does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.
- [(15) "Exemplary Behavior": Reasonable compliance with parole conditions.]
- (16) "Future Disposition Hearing": A hearing at which the Board orders the sanction for a violation of parole or post-prison supervision conditions [is established].
- (17) "Gang Member": A person who associates with a group which identifies itself through the use of a name, unique appearance, language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity.
- (18) "Gang-Related Activity": Crime committed by a gang member:
(a) with other known gang members;
(b) against other known gang members; or
(c) against a person who is not a gang member;
in order to further the purposes of the gang or impress other gang members.
- (19) "History/Risk Score": A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B.

- (20) "Inactive Parole" includes:
- (a) parole conditions:
 - (A) [Do not own, possess, or be in control of any weapon;
 - (B)] Obey all municipal, county, state and federal laws;
 - [(C) Register as a sex offender pursuant to ORS 181.517-.519;]
 - (B) Inactive parole must serve the best interests of the parolee and of society;
 - (b) no parole officer supervision [by a parole officer];
 - (c) no supervision fees; and
 - (d) name and status maintained on the LEDS and EPR computer systems; EPR will report only class A or B felonies or C person-to-person felonies.
- (21) "In Camera Hearing": The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.
- (22) "Initial Parole Release Date": The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).
- (23) "Inoperative Time": Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.
- (24) "Less Than the Sum of the Terms": An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.
- (25) "Matrix Ranges": Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.
- (26) "The Matrix": A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.
- (27) "Mitigation": The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant Exhibit E-2 and E-3.
- (28) "Parole": A Board authorized conditional release [authorized by the Board] from a state correctional facility into the community or to a detainer.
- (29) "Particularly Violent or Otherwise Dangerous Criminal Conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.
- (30) "Parole Board Record": The file the Board maintains for each prisoner containing the information listed in ORS 144.185.
- (31) "Period Under Review": Under Division 40, the time already served on the prison term, normally the three year period prior to the personal review hearing.

- (32) "Post-Prison Supervision": A sentence to a term under the supervision of the Department of Corrections or a corrections agency designated by the Department.
- (33) "Principal Range": The range of months for the crime holding the highest crime severity rating. When the ranges are the same, the Board shall designate one range [shall be designated] as the principal range.
- (34) "Preponderance": Evidence which is of greater weight or more convincing than the evidence [which is] offered in opposition to it.
- (35) "Probable Cause": A substantial objective basis for believing that more likely than not a person has committed an offense or violation [has been committed] and the person to be arrested has committed it.
- (36) "Prison Term": The Board established time [established by the Board of Parole to be served] the prisoner must serve before the parole release date.
- (37) "Prison Term Hearing": The hearing at which the Board establishes an inmate's prison term.
- (38) "Revocation Hearing": A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and whether the Hearings Officer should recommend [a recommendation should be made] that the parolee or offender [be returned] return to prison or [continued] continue on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)
- (39) "Serious Physical Injury": Any physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.
- (40) "Stranger": A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.
- (41) "Subcategory": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).
- (42) "Subordinate Range": Any range less than or equal to the principal range.
- (43) "Subpoena Duces Tecum": A subpoena requiring the party to appear at a hearing with a document or piece of evidence [to be examined at the hearing].
- (44) "Summing the Ranges": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-35-021.
- (45) "Unauthorized Absence": Time spent outside a state correctional facility without [the] Department of Corrections' authorization [of the Department of Corrections], whether it is an escape or an unauthorized departure.

- (46) "Unified Range": The total range computed under OAR 255-35-021 for consecutive sentences.
- (47) "Unsum the Ranges": To establish a matrix range at less than the unified range. The effect of unsumming is [to treat] treatment of one or more [of the] ranges as if concurrent.
- (48) "Variations": The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.
- (49) "Victim": The actual victim of the crime, a victim-selected representative [selected by the victim], or the victim's next of kin. In the case of a minor or incompetent victim, this term shall include the victim's guardian [of the victim].

Crossed out means not amended

DIVISION 10

ORGANIZATION
ORS 144.005-144.035

Membership

~~255-10-005 (2/1/79; 5/31/85; 5/19/88; 11/1/89)~~

The Board of Parole and Post-Prison Supervision shall consist of those members appointed by the Governor pursuant to ORS 144.005.

Chairperson; Vice-Chairperson; Selection; Term

~~255-10-010 (2/1/79; 11/25/81, temporary; 5/19/82, 5/31/85, 5/19/88, repealed)~~

Chairperson; Vice-Chairperson; Powers and Duties

255-10-015 (2/1/79; 11/25/81, temporary; 5/19/82, 5/19/88; 5/1/91, temporary; 10/15/91)

- (1) The Chairperson shall have the powers and duties established by law, and [such powers and duties,] in addition [to those established by law], the powers and duties necessary for the performance of the office, as determined by the Governor. Such powers and duties shall include, but are not limited to:
 - (a) assigning Board members to panels and designating the presiding members in order to conduct hearings and reviews;
 - [(b)] serving as the presiding member when on a panel or a Full Board;
 - [(c)](b) apportioning matters for decision to the panels and Full Board [for decision];
 - [(d)](c) reassigning matters to different panels when required by rule, law, or procedure;
 - [(e)](d) scheduling business meetings and establishing the agenda; and
 - [(f)](e) informing the following persons of the scheduled release of each prisoner (ORS 144.120 (6), 144.260):
 - (A) victims who request notification;
 - (B) the Department of Corrections;
 - (C) sentencing judge[.];
 - (D) district attorney[.];
 - (E) sheriff, or arresting agency [of the scheduled release of each prisoner (ORS 144.120(6), 144.260)].
- (2) The vice-chairperson shall have the powers and duties determined by the Governor to be necessary for the performance of the office.

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

~~255-10-020 (2/1/79; 5/19/88, repealed)~~

DIVISION 20

BUSINESS MEETING
ORS 144.025

Scheduling

255-20-005 (2/1/79; 5/31/85; 5/19/88; 5/1/91, temporary; 10/15/91)

[Business meetings shall be held as scheduled by the] The chairperson shall schedule regular business meetings and shall schedule additional business meetings [or] upon [the request of at least three (3)] a majority of [members of the Board] Board's request.

Quorum

255-20-010 (2/1/79; 5/31/85; 5/19/88; 5/1/91, temporary; 10/15/91)

A business meeting requires the presence of at least [three (3) voting] a majority of the voting Board members [of the Board], one of whom shall be the chairperson, vice-chairperson or chairperson's designee.

Matters for Consideration; Majority Vote

255-20-015 (2/1/79; 5/31/85; 5/19/88; 5/1/91, temporary; 10/15/91)

At [R]business meetings, the chairperson, chairperson's designee, or Board members shall present [shall consider] matters relating to Board policy and administration for consideration [presented by the chairperson or by Board members.] [Three (3)] A decision at a business meeting requires a majority of affirmative votes [are required to make a Board decision at a business meeting].

Procedure

255-20-020 (5/19/88)

~~A business meeting under this Division is a public meeting as defined in ORS 192.610 to 192.690. Adequate public notice, public access, and public minutes are required.~~

DIVISION 25

ADJUSTED COMMITMENT DATE
ORS 137.320, 137.370, 144.783, 144.079

Date Prison Term Starts to Run

255-25-005 (5/31/85; 5/19/88; 10/15/91)

- (1) [The commencement date for the prison term is the] The date on which the prisoner is delivered to custody of the Department of Corrections for the purpose of serving the sentence is the commencement date for the prison term.
- (2) In the case of additional consecutive sentences, the Board shall rescind the existing parole release date [shall be rescinded and] which shall become the commencement date for the new [sentence] prison term unless the Board unsums the consecutive ranges pursuant to OAR 255-35-022. Upon unsumming the ranges, the Board shall apply section three of this rule.
- (3) In the case of additional concurrent sentences, the sentencing date shall be the commencement date for the new prison term.

Credit for Time Served

255-25-010 (5/31/85; 5/19/88; 7/20/88, temporary; 12/6/88; 10/15/91)

- (1) Upon certification of the credit for time served by the Department of Corrections, the Board shall grant [T]time served credit [shall be granted] towards the prison term for the following time periods:
 - (a) the actual, non-overlapping, certified time served in the County Jail after arrest until the prison term begins; or
 - (b) the actual, non-overlapping, certified time served in the County Jail as a condition of probation.
- (2) When the Board grants credit [is granted] towards the initial prison term under subsection (1) of this section, the Board shall deduct the time served credits [shall be deducted from the parole release date after a prison term has been established] from the commencement date as defined in OAR 255-25-005(1).
- (3) When the Board grants credit [is granted] towards the prison term on a sentence consecutive to one being served, the adjusted commitment date shall be the prior parole release date. The Board shall deduct the time served credits [shall be deducted] from the newly established parole release date after establishment of a prison term [has been established] on the new consecutive sentence.
- (4) When the Board grants credit towards the prison term on a sentence concurrent to one being served, the Board shall deduct time served credits from the sentencing date on the new concurrent sentence.

[(4)](5) If the Board receives additional time served credits [are received] after establishment of the prison term [has been established], the Board or its designee may administratively correct the parole release date. The [person so affected shall receive notice in writing of the Board's action] Board shall send written notice of the correction to the prisoner.

Calculation of Adjusted Commitment Date
255-25-015 (5/31/85; 5/19/88, repealed)

Method of Certification/Disagreement with Time Served Calculation
255-25-020 (5/31/85; 5/19/88, repealed)

Adjustment of Adjusted Commitment Date
255-25-025 (5/31/85; 5/19/88, repealed)

Effect of Inoperative Time on Prison Terms
255-25-030 (5/19/88)

Inoperative time shall not count towards the completion of the prison term. In resetting the parole release date, the inoperative time shall be added to the prison term. The Board shall notify the inmate of its action.

Adjusted Commitment Date for Parole Violations
255-25-035 (12/6/88)

The adjusted commitment date for parole violators with new convictions or new commitments shall be calculated as outlined in OAR 255-75-078.

When Full Board is Required; Procedures for Board Decision (ORS 144.035, 144.054)

255-30-015 (2/1/79; 5/31/85; 11/13/86, temporary; 12/2/86, temporary; 3/25/88, temporary; 5/19/88; 12/6/88; 11/1/89; 5/1/91, temporary; 10/15/91)

(1) Except as otherwise provided in this rule, [all prison term hearings shall be conducted by] a panel of two voting members of the Board shall conduct all prison term hearings and shall make the final decision.

(2) [The following hearings may be conducted by a quorum] A majority of the Board may conduct the following hearings; [, with final decision by a quorum] a majority of the Board shall make the final decision in cases in which:

(a) [cases where the prisoner was sentenced] the court sentenced the prisoner under ORS 161.725 and 161.735 as a dangerous offender;

(b) [cases where] the Department of Corrections recommends an extension of more than two years in the prison term [is recommended] for misconduct;

[(c) whenever a panel lacks a quorum and is unable to come to a unanimous decision to set a prisoner's prison term, and a second panel is assigned to hear the case, and no quorum occurs in the second panel.]

[(3) The following hearings may be conducted by a quorum of the Board with final decision by at least four members of the Board:]

[(a)](c) [cases where] the court ordered a [the] minimum sentence [imposed by a judge] pursuant to ORS 144.110 and the minimum exceeds the matrix range and the variations permitted a panel;

[(b) whenever a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote];

[(c) whenever the panel recommends denying parole;]

[(d)](d) [whenever] a panel recommends a decision to set the prison term below a judicially set minimum sentence (A panel may uphold a judicial minimum.);

[(e)](e) [whenever] a panel recommends unsumming a unified range.

[(4)](3) [The following hearings may be conducted by a quorum] A majority of the Board may conduct the following hearings; [with review of] the full Board shall make the final decision [by the full Board]:

(a) cases involving a prisoner sentenced to death for aggravated murder or life imprisonment for murder or aggravated murder;

- (b) cases where the prisoner was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim.

[(5)](4) If a Board member is not present at a [Full Board] hearing, and statute or rule compels review [is compelled by statute or rule], or the vote may affect the outcome of the hearing, the Board member may vote administratively after reviewing the Board Review Packet and the handwritten Board Action Form with attached exhibits, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.

[(6)](5) A panel of one Board member or of one Board member and one hearings officer may conduct prison term hearings for prisoners convicted of [Class C felonies] non-person-to-person crimes. In case of a panel consisting of one board member, another member shall vote after review of the record as provided in section 4 of this rule. A hearings officer may not participate on a panel in cases [where] in which, pursuant to ORS 144.110, a court imposed a [the] minimum sentence [imposed by a judge pursuant to ORS 144.110] that exceeds the matrix range and variations permitted a panel.

(7) (a) If there is a division in a panel so that a decision is not unanimous, another Board member shall vote after review of the record as provided in section 4 of this rule.

(b) If the original panel was made up of one board member, and the member voting after administrative review of the record disagrees with the decision, the chairperson shall reassign the case to a panel made up of the remaining Board members. If this second panel agrees with neither member of the original panel, the chairperson will refer the case for hearing and decision before the full Board.

(c) When a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote, the chairperson shall reassign the case for hearing and decision before the full Board.

(d) When a panel recommends denying parole, the chairperson shall reassign the case for hearing before the full Board, and three members must affirmatively agree to deny parole, except that if the result is life imprisonment, the vote must be unanimous.

Procedures for Full Board Decisions

255-30-020 (2/1/79, 5/31/85; 11/13/86, temporary; 12/2/86, temporary; 3/25/88, temporary, 5/19/88, repealed)

Teleconference Hearing (ORS 144.035(5))

255-30-021 (5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89)

At the discretion of the chairperson, any hearing may be conducted by teleconference call

10/15/91

~~Prisoner Appearance at Board Hearing (ORS 144.035(5), 144.120)
255-30-023 (5/19/88; 11/1/89; 2/20/90, temporary; 7/1/90)~~

- ~~(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.~~

~~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 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 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.~~

~~Who May Appear at a Board Hearing (ORS 144.123, 144.120(7))
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.~~

Purpose of Hearing
255-32-020 (5/31/85)

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

Manner of Hearing
255-32-025 (5/31/85; 5/19/88; 11/1/89; 1/16/91; 5/1/91, temporary; 10/15/91)

- (1) The Board shall conduct the proceeding [shall be conducted] in the manner prescribed for a contested case hearing under ORS 183.310 to 183.550 except that:
 - (a) The prisoner shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and
 - (b) [The prisoner shall have the right, if] If the prisoner is without sufficient funds to employ an attorney, the prisoner shall have the right to [be represented by] Board appointed legal counsel[, appointed by the Board, at state expense].
- (2) If upon hearing all the evidence, the Full Board upon a unanimous vote of all [five] members finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole or work release and shall set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.
- (3) When a prisoner has a consecutive sentence for a crime other than aggravated murder, the Board shall determine the parole release date for the consecutive sentence [shall be determined] at the time the Board determines a parole release date on the aggravated murder conviction.

Effect of Denying Relief Request
255-32-035 (5/31/85; 5/19/88)

If the Board finds that the prisoner is not capable of rehabilitation, the Board shall deny the relief sought in the prisoners petition. Not less than two years after the denial the prisoner may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.

Record/Notice
255-32-040 (5/31/85)

Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in Divisions 15 and 30 of these rules.

- (5) To determine the unified range for inmates with consecutive sentences which involve a crime listed in section (4) of this rule, the Board shall establish the matrix range for each crime by using the inmate's history/risk score pursuant to Exhibit B and the applicable crime category rationale. The unified range shall be the sum of the ranges established under this section.
- (6) The unified range may be subject to the variations established in accordance with OAR 255-35-016 and Exhibit D.

Consecutive Sentences: Referring a Case to the Full Board; Going Below the Range; Additional Consecutive Sentences (ORS 144.079, 144.783)

255-35-022 (11/25/81, temporary; 5/19/82; 5/31/85; 6/8/87, temporary; 6/18/87, temporary; 7/21/87, temporary; 12/16/87; 5/19/88; 7/1/90; 5/1/91, temporary; 10/15/91)

- (1) When a panel recommends that a range be less than the sum of the terms under OAR 255-35-021, the panel shall refer the case [shall be referred] to [the Full] a majority of the Board.
- (2) The duration of imprisonment for consecutive sentences may be less than the sum of the terms under OAR 255-35-021, if the Board finds by [four] a majority vote [affirmative votes] that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security.
- (3) When additional sentences are imposed for crimes which took place during the period under consideration at a prior prison term hearing and the additional sentences are consecutive to the [crimes] sentences already considered, the Board shall:
- (a) conduct a de novo prison term hearing pursuant to the provisions of Division 30 for all the crimes. The Board shall compute the unified range for the additional sentences and the sentences which were already considered [shall be computed] under the provisions of OAR 255-35-021; [or]
 - (b) conduct a hearing to consider only the additional consecutive sentences using base ranges for the additional [crimes] sentences. The commencement date for the new prison term under this subsection shall be the parole release date set at the previous prison term hearing[.]; or
 - (c) conduct a hearing to consider whether to unsum the additional consecutive ranges.
- (4) The provisions of section (3) of this rule apply only to crimes which occurred on or after July 11, 1987, unless one of the crimes involved is listed in OAR 255-35-021 (4).
- [(5) If the Board votes to unsum the consecutive ranges at the beginning of the hearing, then a hearing under section (3) of this rule is not required, unless one of the crimes involved is listed in OAR 255-35-021 (4). The new crime will be considered as a using the principal range.]

- [(6)](5) If one of the crimes involved is listed in OAR 255-35-021 (4) and the sentence is consecutive, [then] the Board shall conduct a de novo hearing under subsection (3)(a) of this rule [must be conducted].
- [(7)](6) If a new [crime] sentence is consecutive to [crimes] sentences already considered, and is the most serious offense with the highest crime severity rating and/or longest sentence, the Board shall conduct a de novo hearing under subsection (3)(a) of this rule [must be conducted].
- [(8)](7) When additional sentences are imposed for crimes which took place after the period considered at a prior prison term hearing and the additional sentences are consecutive to the [crimes] sentences already considered, the Board shall establish the matrix range for the additional [crimes] sentences [shall be established] as if [it] they were [a] new [sentence] sentences. If the inmate has not yet been released on parole, the commencement date for the new [crimes] prison term shall be the parole release date established at the previous prison term hearing.

Effect of Minimum Sentences on Prison Terms; Consecutive Minimum Sentences

(ORS 144.035(4), 144.110, 144.245, 144.783, 161.610, 163.105)

255-35-023 (5/31/85; 7/7/87, temporary; 12/14/87; 5/19/88; 4/5/90; 5/1/91, temporary; 10/15/91)

(1) The Board shall not release a prisoner on parole until the prisoner has served a judicially imposed minimum prison term [has been served], except upon the affirmative majority vote of [four] members who have found that:

- (a) the minimum term is not an appropriate penalty for the criminal offense; and
- (b) the minimum term is not necessary to protect the public.

(2) If at least [four members] a majority of the Board members have made the findings listed in section (1) of this rule, the Board shall establish a prison term using the guideline range and the standard variations allowed, unless there are remaining judicial minimums above the guideline range in length, which the Board has upheld.

(3) When the court has ordered [there are] consecutive minimum sentences and the Board finds that the combined minimums are not appropriate penalties for the criminal offenses involved and are not necessary to protect community security, the Board, by [four] a majority of concurring votes, may override one or more of the judicially imposed minimums and set a prison term which is less than the sum of the minimum terms.

(4) The Board shall set a parole release date in accordance with OAR 255-35-013 or 255-35-014, and shall state the facts and reasons for its actions.

(5) Notwithstanding subsection (3) of this rule, when the Board overrides [a] an ORS 163.115 murder minimum, the vote must be unanimous.

(6) The Board [may] shall not override ORS 161.610 gun minimums except as provided by ORS 144.122, ORS 144.126 and OAR 255-40-028.

(7) The Board [may] shall not override ORS 163.105 aggravated murder minimums.

Parole Denial (ORS 144.120(4))

255-35-030 (2/1/79; 5/31/85; 5/19/88; 12/6/88; 5/1/91, temporary; 10/15/91)

- (1) Except when the result is life imprisonment, [T]the Board, with [four (4) affirmative votes] a majority vote of members, may deny parole pursuant to ORS 144.120(4) when:
- (a) [T]the commitment offense [of commitment] included particularly violent or otherwise dangerous criminal conduct as defined by section 255-05-005(30);
 - (b) [The offense was preceded by] two (2) or more Class A or Class B felony convictions preceded the commitment offense; or
 - (c) [T]he prisoner's record includes a psychiatric or psychological diagnosis of a present severe emotional disturbance such as to constitute a danger to the health or safety of the community.

(2) When the result of parole denial is life in prison, the Board shall agree unanimously.

[(2)](3) A [two-member] panel may refer the matter to the Full Board with the recommendation that the Board deny parole [should be denied] based on the criteria listed in subsection (1) of this section.

[(3)](4) When the Board chooses not to set a parole release date, it shall clearly state on the record the facts and specific reasons for that decision.

Variations From the Ranges for Aggravation or Mitigation: Statements for Record, Prior Disclosure to Prisoners

255-35-035 (2/1/79; 5/1/80, temporary; 8/15/80; 11/4/81, temporary; 5/19/82; 5/31/85; 5/19/88, repealed)

Resetting Pre-Guideline Parole Hearing Dates for Category 7 Offenders

255-35-040 (2/1/79; 5/31/85, repealed)

DIVISION 60

RELEASE TO POST-PRISON SUPERVISION OR PAROLE
AND EXIT INTERVIEWS

Exit Interviews; Parole Plan; and Psychiatric Records

(ORS 144.098, 144.125, 144.800)

255-60-006 (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85;
5/19/88; 11/1/89; 4/5/90; 5/1/91, temporary; 10/15/91)

- (1) At any time prior to ten days before a prisoner's scheduled release to post-prison supervision or parole, the Board on its own initiative or [on] at the request of the Department of Corrections, may conduct an exit interview to review the prisoner's:
 - (a) release plan;
 - (b) victim's statements, if any;
 - (c) PSR or similar report;
 - (d) psychiatric/psychological reports, if any;
 - (e) conduct while in confinement; and
 - (f) any other information relevant to the prisoner's reintegration into the community that [may be submitted by] the prisoner, the prisoner's attorney, the Department of Corrections or any other person submits.
- (2) The [procedures governing exit interviews shall be the same as the] procedures for records, disclosure and notice outlined in Divisions 15 and 30 shall govern exit interviews.
- (3) Two Board members shall conduct the interview and make decisions pursuant to OAR 255-30-015(6)-(7).

Release Plans (ORS 144.096, 144.125, 144.185)

255-60-008 (4/5/90; 5/1/91, temporary; 10/15/91)

- (1) Any time prior to release on parole or post-prison supervision, [T]the Board shall examine the prisoner's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:
 - (a) employment;
 - (b) school, or other situation (e.g., retirement income);
 - (c) verifiable residence;
 - (d) a description of support services, program opportunities and treatment programs;
 - (e) prescribed medication;

- (f) recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
 - (g) level of supervision consistent with the prisoner's risk assessment classification; and
 - (h) a restitution and compensatory fine payment schedule.
- (2) The Board may defer [P]parole release [may be deferred] up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification [of] or a satisfactory plan from the Department of Corrections.
 - (3) A prisoner requesting an out-of-state parole waives the ninety (90) day limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.
 - (4) The Board shall not defer [R]release to post-prison supervision [may not be deferred]. The following procedure shall apply:
 - (a) If the release plan [which is submitted by] the Department of Corrections submits at least 60 days prior to release, is deficient, [it] the Board will [be returned] return it to the Department of Corrections with the Board's recommended modifications.
 - (b) The Department shall submit a revised plan to the Board not less than ten days prior to the prisoner's release.
 - (c) If the Board does not accept the revised plan [is not acceptable to the Board], the Board shall determine the provisions of the final plan prior to the prisoner's release.
 - (5) Two Board members shall review and approve the release plan in accordance with OAR 255-30-015(6)-(7).

Waiver of 90-Day Limitation; Deferral for Serious Misconduct

255-60-010 (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

Psychological or Psychiatric Reports (ORS 144.125. 144.223)

255-60-012 (4/5/90; 12/?/91)

This rule does not apply to prisoner's whose only crimes are committed on or after November 1, 1989.

- (1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.
- (2) Pursuant to ORS 144.223, the Board may order a psychiatric/psychological evaluation of any prisoner anytime prior to release.

- (1) The parolee/offender is suffering from an emotional or psychological disturbance which makes the parolee/offender dangerous to self or others if left in the community. The emotional or psychological disturbance may be indicated by, but not limited to, threatening behavior in the form of:
 - (a) showing a present capacity to carry out any statements or threats of violence against the parolee/offender or the community; or
 - (b) The substantial duplication of circumstances and conduct which led to the initial incarceration; or
- (2) The parolee's/offender's behavior cannot be adequately controlled if left in the community (e.g., demonstrated failure to follow through on a previously accepted mental health treatment program, or other treatment programs); or
- (3) Upon release on parole or post-prison supervision, an existing probation is revoked, resulting in the prisoner's return to custody of the Department of Corrections for criminal activity which did not occur while on parole or post-prison supervision; or
- (4) The parolee/offender receives a new conviction or new commitment to the custody of the Department of Corrections for criminal activity which did not occur while on parole or post-prison supervision.

Hearing Requirement: Procedure (ORS 144.331(2), 144.343, 144.370.)
255-75-005 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
 5/19/88; 10/16/89; 5/1/91, temporary; 10/15/91)

- (1) Before the Board can revoke parole or post-prison supervision, the Board or a Hearings Officer shall conduct a revocation hearing [shall be conducted].
- (2) Except in the cases set forth in OAR 255-75-015, the Board or Hearings Officer shall conduct the hearing [shall be held] within a reasonable time after the parole and post-prison supervision officer or other person notifies the Board [is notified] of the alleged violations. [and] The Board or Hearings Officer shall conduct the hearing reasonably near the place of the alleged violation or the place of confinement or may conduct the hearing by teleconference.
- (3) Except as otherwise provided by a letter of agreement, [B]before a Hearings Officer can hold an out-of-custody hearing, the parole and post-prison supervision officer responsible for supervising the parolee/offender [must] shall obtain a citation to appear from the Board.
- (4) Except as otherwise provided by a letter of agreement, [F]for an in-custody revocation hearing, the parole and post-prison supervision officer [must] shall request a non-bailable suspend and detain warrant from the Board.
- (5) One Board member may issue [A] a citation to appear or a suspend and detain warrant [requires three affirmative votes by the Board].

Ten-Day Period for Parolee's/Offender's Evidence and Exceptions

255-75-065 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
5/19/88; 4/19/89, temporary; 10/16/89; 10/15/91)

- (1) Within a reasonable time after the hearing, the Hearings Officer shall provide his/her report [Hearings Officer's] report [shall be provided] to the parolee/offender.
- (2) Unless the parolee/offender waives the right to respond [is waived], the parolee/offender shall have 10 days from the date the Hearings Officer mails the report [is mailed] to the parolee/offender to submit evidence and make written exceptions to the report for the Board's consideration.
- (3) If the parolee/offender waives the right to respond [is waived], the Hearings Officer shall include the waiver [shall be included] in the Hearings Officer's report to the Board.

Final Action: Procedure

255-75-070 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
5/19/88; 7/1/88; 10/18/88; 4/19/89, temporary; 10/16/89; 5/1/91,
temporary; 10/15/91)

- (1) The Board shall consider the Hearings Officer's report, and the parolee's/offender's evidence and exceptions. [A majority of the] The Board shall enter a decision, and shall record the individual votes of the Board members [shall be recorded] in accordance with Exhibit K.
- (2) The Board may adopt or reject any or all the recommendations of the Hearings Officer. The final order of revocation shall indicate the findings adopted by the Board.
- (3) A copy of the final order of revocation shall be forwarded to the parolee/offender with notice of the right to administrative and judicial review.

Rerelease Order (144.395, 144.346)

255-75-072 (4/19/89, temporary; 10/16/89; 10/15/91, temporary)

- (1) At the time of the revocation decision, the Board shall make an order concerning rerelease [shall be made].
- (2) In the rerelease order, the Board may:
 - (a) continue parole or post-prison supervision pursuant to 255-75-075 or 255-75-080; or
 - (b) set the rerelease date in accordance with rule 255-75-079; or
 - (c) defer the rerelease decision pending a future disposition hearing.
- (3) If the Board automatically revokes parole or post-prison supervision pursuant to ORS 144.345(2), the Board shall administratively order rerelease upon notification of the new sentence.

Denial of Rerelease Consideration

255-75-096 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
4/19/89, temporary; 10/16/89; 5/1/91, temporary; 10/15/91)

- (1) Upon a finding of aggravation pursuant to Exhibit E or Exhibit H, the Board may deny rerelease on parole and require the parole violator to serve to the statutory good time date or, in the case of aggravated murder, for life. This action requires the affirmative vote of [at least four voting] a majority of members, except that if the result is life imprisonment, the full Board must vote unanimously.
- (2) Denial of rerelease on parole requires a future disposition hearing.
- (3) [In c]Cases [where] in which the Board sets [setting] a parole violator within the guidelines set forth in rule 255-75-079 [would require] and the result requires the parole violator to serve to the end of the sentence[, four votes are] do not require a majority vote of all members [not required].

Time for Future Disposition Hearing

255-75-097 (4/19/89, temporary; 10/16/89; 12/?/91)

When a future disposition hearing is held pursuant to, [255-75-072(4)(c)] 255-75-072(2)(c), [255-75-079(3)] or 255-75-096, the following timelines [will] apply:

- (1) If the parolee/offender has a new conviction, the Board may schedule the future disposition hearing [may be scheduled] at the same time as the new prison term hearing.
- (2) If the parolee/offender has no new conviction or has no prison term hearing, the Board shall schedule the future disposition hearing [shall be scheduled] within 60 days of return to the institution.

Restoration of Statutory and Meritorious Goodtime

255-75-098 (3/14/88, temporary; 5/19/88; 12/6/88; 10/16/89)

Upon recommendation of the superintendent of the institution, the Board may restore part or all of forfeited statutory and meritorious goodtime when:

- (1) there is no violation of parole; or
- (2) parole is revoked on a best interest basis and there is no actual parole violation; or
- (3) parole is revoked on a technical violation; or
- (4) parolee is within 180 days of discharge; or
- (5) parole is revoked for new criminal activity which is a misdemeanor or non person-to-person class C felony and:
 - (a) the new criminal activity was already sanctioned at the local level; or

Parole Summary; Active Supervision Review

255-92-025 (12/16/87; 11/1/89; 5/1/91, temporary; 10/15/91)

- (1) Within fifteen (15) days after the parolee has completed the Board established [a] period of active supervision [established by the Board], the supervising officer shall send to the Board a parole summary. The parole summary shall contain:
 - (a) an evaluation of the parolee's behavior;
 - (b) an update on the status of the parolee's restitution, compensatory fine, and attorney fee obligations, if any; and
 - (c) a recommendation that the Board remove the parolee [be removed] from active supervision and place him or her on inactive supervision; or
 - (d) a recommendation that the Board continue the parolee [be continued] on active supervision.
- (2) If the supervising officer recommends that the Board continue active supervision [be continued], the officer shall include in the parole summary supporting reasons for this recommendation [shall be included in the parole summary].
- (3) As soon as the Board receives the parole summary [is received by the Board any three (3)], one Board members [will] shall conduct an active supervision review [by administrative file pass] administratively to examine the parolee's record on active supervision. The Board may order a show cause hearing to review a request for extension of the active period of supervision.

Continued Active Supervision; Procedure

255-92-030 (12/16/87; 5/19/88; 7/1/88; 12/7/91)

[When continued active supervision is recommended by the supervising officer,] [1]The Board shall determine at the active supervision review if a continuance is appropriate. If the Board decides that continuing active supervision is appropriate, the Board shall:

- (1) use the guidelines set forth in Exhibit 1 to establish the length of the parolee's next period of active supervision; and
- (2) notify the parolee and the parole officer of its decision, the length of the parolee's next period of active supervision, and the reasons for continuing active supervision.

Removal From Active Supervision; Procedure

255-92-035 (12/16/87; 1/16/91; 10/15/91)

- (1) When the Board decides to remove a parolee from active supervision, the Board shall:
 - (a) delete conditions which the Board has required the parolee [has been required] to follow except the following conditions:

- (A) offender shall obey all municipal, county, state and federal laws;
 - [(B) offender shall not own, possess or be in control of any weapon;]
 - [(C) if applicable, an offender convicted of a sex offense shall register his or her residency pursuant to ORS 181.517-519;]
 - (B) inactive parole must serve the best interests of the parolee and of society;
- (b) issue a [new parole order] notice certifying inactive parole status[.];
 - (c) notify the supervising officer that:
 - (A) the Board does not require that the officer provide supervision of the parolee;
 - (B) the officer shall monitor LEADS and EPR for new class A and B felonies and person-to-person class C felonies.
- (2) [A parolee shall be considered to be on inactive parole as of t]The date the [parole order] Board signs the notice certifying inactive status is [signed by the Board] the commencement date for inactive parole.

Bases for Reinstating Active Supervision; Procedure

255-92-040 (12/16/87; 5/19/88; 7/1/88; 4/19/89, temporary; 11/1/89; 1/16/91; 5/1/91, temporary; 10/15/91)

- (1) The Board may reinstate [A]active supervision [may be reinstated] for the following reasons:
 - (a) failure to obey all municipal, county, state and federal laws;
 - [(b) ownership, possession, or control of any weapon;]
 - [(c) failure to register residency as provided in ORS 181.517-519;]
 - [(d)](b) inactive parole is no longer in the best interests of the parolee or society.
- (2) When the Board receives information indicating that reinstatement on active parole supervision may be warranted pursuant to section (1) of this rule, two members of the Board shall review the parolee's conduct by administrative file pass to decide whether or not to cite the parolee to a show cause hearing.
- (3) After the show cause hearing, the Board shall notify the parolee of its decision. If the Board decides to reinstate active parole supervision, the Board shall also notify the parolee of the length of the parolee's next period of active supervision, and the reasons for reinstating active supervision.

- (4) The Board or its designated representative shall conduct [S]show cause hearings under this section [shall be conducted] under the same procedures as parole revocation hearings in Division 75.
- (5) If a parolee is on inactive parole and the Board revokes parole [is revoked] following a parole revocation hearing, in addition to any other Board imposed sanctions [imposed by the Board], [when the parolee is released] upon release from custody the Board shall reinstate the parolee [will be reinstated] on active supervision. The Board shall set a new 36 month period of active supervision [will be set at the time] when it makes the future disposition decision [is made]. If the sentence expires prior to 36 months, the new period of active supervision shall be until the sentence expiration date.
- (6) If a parolee is on active parole and the Board revokes parole [is revoked] following a parole revocation hearing, in addition to any other Board imposed sanctions [imposed by the Board], [when the parolee is released] upon release from custody the Board shall reinstate the parolee [will be reinstated] on active supervision. The Board shall set the new period of active supervision [will be set at the the time] when it makes the future disposition decision [is made].
- (7) The Board shall determine the new period of active supervision under this section [shall be determined] pursuant to the guidelines set forth in Exhibit 1.

EXHIBIT D

GUIDELINE MATRIX
 STANDARD VARIATIONS FROM THE RANGES UNDER RULE 255-35-035
 (5/1/91, temporary; 10/15/91)

CRIME CATEGORY	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
	11-9 Excellent	8-6 Good	5-3 Fair	2-0 Poor
1 (Panel)	3*	3	3	3
2 (Panel)	3	3	3	4
3 (Panel)	3	3	3	6
4 (Panel)	3	3	4	6
5 (Panel)	4	6	6	8
6 (Panel)	24	24	24	24
7 (Board)	36	36	36	36
8 (Board)	36	36	36	36

*All numbers represent standard variations in months.

The maximum variations allowed for crime categories 1 through 6 are:

- (a) For a panel: two standard variations.
- (b) For a panel with a concurring vote (3 concurring votes): three times the standard variation.
- (c) For four (4) concurring votes: four times the standard variation.
- (d) For five (5) concurring votes after a hearing before the Board pursuant to OAR 255-30-015; five times the standard variation.

The maximum variations allowed for Category 7 and 8 crimes are :

- (a) [For three (3) concurring votes: the standard variation of 36 months.
- (b)] For [four (4)] a majority of concurring votes: up to two times the standard variation of 36 months (72 months).
- [(c)](b) For [five (5)] a unanimous concurring [votes] vote: up to three times the standard variation of 36 months (108 months).]

The Board may deny parole pursuant to OAR 255-35-030.

EXHIBIT K

VOTING REQUIREMENTS FOR PAROLE REVOCATION CASES
(5/1/91, temporary; 10/15/91)

[All] Board actions require [three concurring votes.] the number of concurring votes set forth in 1-17 below. [Any time a vote is recorded in disagreement, additional votes are required to make concurring votes.]

VOTES:

- 1 1. Suspend and Detain (abscond, major technical, new crime, persistent misbehavior, etc.) (ORS 144.050, 144.331, 144.370).
- 1 2. Cite to Appear at [parole] violation hearing (ORS 144.040, 144.331(2)).
- 1 3. Withdraw Suspend and Detain Order.
- 1 4. Return to Oregon (absconder, new crime, no basis to continue) (ORS 144.050, 144.331(1), 144.108).
- 2 5. Adopt findings and recommendations of hearings officer (ORS 144.040, 144.343).
- 2 6. Continue on parole and/or post-prison supervision (ORS 144.343).
- 2 7. Defer [formal] final decision [regarding disposition].
- 2 8. Adopt findings of hearings officer; reject recommendations (ORS 144.040, 144.343).
- 2 9. Revoke parole or return offender to custody (ORS 144.343, 144.345).
- 10.
- 1 11. Issue Reprimand (ORS 144.343).
- 2 12. Modify Conditions of supervision (state reasons) (ORS 144.102-106, ORS 144.270, 144.343).
- 2 13. Extend supervision period [six months] (ORS 144.305, 144.310).
- 1 14. No action, report noted.
- 1 15. Discharge parole (ORS 144.305, 144.310).
- 1 16. Close Interest, sentence or post-prison supervision expired.
- 17.
- 1 18. Order Inactive Supervision (ORS 144.305).
- 2 19. Reinstate Active Supervision (ORS 144.305).

EXHIBIT L

Guidelines for Extending Active Supervision
 After the Initial 36 Month Period
 of Supervision is Completed
 Under Division 92

(ORS 144.305, OAR 255-92-020, 255-92-030, 255-92-040)
 (5/1/91, temporary; 10/15/91)

(shown in months)

<u>Crime Severity Rating</u>	<u>Criminal History/Risk Assessment Score</u>			
	11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
Category 1	06	06	06	12
Category 2	06	06	12	12
Category 3	06	12	12	18
Category 4	12	12	18	18
Category 5	12	18	18	24
Category 6	18	18	24	24
Category 7	24	24	24	24

These are only guidelines. If [three members] a majority of the Board [vote] votes to go outside the guidelines, the Board may order any length [period] of active supervision [shall be any time period determined by the Board] up to the sentence expiration date.

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

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on October 7, 1991 (Date)

by the Board of Parole & Post-Prison Supervision
(Department) (Division)

to become effective October 15, 1991
(Date)

The within matter having come before the Board of Parole & Post-Prison Supervision after
(Department) (Division)

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

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: September 1, 1991

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

Adopted:
(New Total Rules)

Amended:
(Existing Rules)

255-40-026, 255-40-028, 255-70-003, 255-75-035, 255-92-015,

255-35-025

Repealed:
(Total Rules Only)

as Administrative Rules of the Board of Parole & Post-Prison Supervision
(Department) (Division)

DATED this 15th day of October, 1991

By: *Devin L. Leaty*
(Authorized Signer)

Title: Chairperson

OCT 1991
RECEIVED
Legislative Counsel's
Office

Statutory Authority: ORS 144.050, 144.140, 144.245, 144.275, 144.305, 161.610 or

Chapter(s) _____ Oregon Laws 19____ or

House Bill(s) 2196, 1991 Legislature; or Senate Bill(s) 214, 216, 1991 Legislature

Subject Matter: Div. 40--prisoners sentenced under ORS 161.610 may be released early with a severe medical condition.
Div. 70--place of residence may be determined using best records available
Div. 92--standard for inactive supervision changed.
Div. 35--parole under ORS 144.245 and extra good time.
Div. 75--attorney fee raised to \$40/hour.

For Further Information Contact: Cindy Burgess Phone: 378-2334
(Rule Coordinator)

BEFORE THE OREGON STATE

BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Permanent)
Amendment of Rules Governing the) STATEMENT OF JUSTIFICATION
Board of Parole & Post-Prison) AND NEED
Supervision)

The Board of Parole and Post-Prison Supervision amended the above referenced rules in order to comply with Senate Bill 214, Senate Bill 216, House Bill 2196 and in order to carry out the legislative intent of ORS 144.245 and in order to pay the going rate for appointed attorneys.

Statutory Authority: ORS Chapter 144, ORS 144.050, 144.140, 144.245, 144.275, 144.305, 161.610.

Need for Rules: To allow humanitarian releases for severe medical conditions to persons sentenced under ORS 161.610 "gun minimums." To provide that all prisoners will go upon parole when they earn extra good time pursuant to legislative intent. To determine the county of residence using the best available records. To change attorney fees to the going rate. To change the standard for inactive parole. Most of these changes are required by the above bills.

Documents Relied Upon: ORS Chapter 144, OAR Chapter 255, Senate Bill 214, Senate Bill 216, House Bill 2196, 6/27/91 Letter from Indigent Defense Services Director.

Date: October 15, 1991



Chairperson
Board of Parole and
Post-Prison Supervision

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183.335

ECONOMIC AFFECT ON THE BOARD:

None.

ECONOMIC AFFECT ON OTHER AGENCIES:

None known. Information unavailable.

ECONOMIC AFFECT ON LOCAL GOVERNMENT:

None known. Information unavailable.

ECONOMIC AFFECT ON IDENTIFIED PUBLIC:

None known. Information unavailable.

SIGNIFICANT ECONOMIC AFFECT ON BUSINESSES:

Appointed Attorneys will receive \$10 more per hour, but the maximum per case remains \$200. Attorneys are rarely appointed.

References for Data and Methods Used Regarding the Above:

OAR 255-75-035

Prepared by: Cindy Burgess Date: 10/15/91
Title: Rules Coordinator

~~Crossed-out means not amended~~

Reopening Cases: When; What is Necessary

255-40-020

~~(2/1/79; 5/20/80; 2/15/81; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88, repealed)~~

Resetting the Parole Release Date to an Earlier Date

255-40-025

~~(2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 12/6/88; 7/1/90)~~

- ~~(1) If the prisoner displays an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months of the three year period under review.~~
- ~~(2) The purpose of a personal review hearing shall be to determine the progress of the prisoner and whether such progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:
 - ~~(a) the individual merits of each case;~~
 - ~~(b) the seriousness of the crime;~~
 - ~~(c) the protection of the public~~
 - ~~(d) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);~~
 - ~~(e) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and~~
 - ~~(f) the absence of disciplinary actions resulting from violation of rules within the three year period.~~~~

Effect of Minimum Terms on Reductions

255-40-026

~~(4/4/88, temporary; 5/19/88; 10/15/91)~~

- ~~(1) If the prisoner has a judicial minimum sentence which the Board [was] previously upheld pursuant to ORS 144.110 or ORS 163.115, the Board must overturn the minimum [must be overturned by four (4) concurring votes of the Board] before it can grant a reduction [can be granted] from the previously established [minimum set] term.~~

- (2) If the prisoner has a mandatory minimum sentence pursuant to ORS 161.610, the Board cannot grant a reduction [cannot be granted] below the mandatory minimum sentence and the statutory reduction for goodtime, except as provided in OAR 255-40-028.

Special Request Reductions

255-40-027 (7/1/90; 12/?/91)

- (1) Upon the institution superintendent and Director of the Department of Correction's [S]special request[s] for a reduction in the prison term, [from the superintendent of the institution and the Director of the Department of Corrections may be scheduled for hearing with the concurrence of the majority of the Board,] a Board majority may schedule a hearing or [may be considered] may consider the request administratively.
- (2) The criteria for a special request reduction shall be:
- (a) when an inmate's documented cooperation with authorities has contributed significantly to the safety and security of the facility; or
 - (b) when cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant on-going criminal activity.
- (3) The prisoner shall have the burden of establishing that his/her conduct meets the criteria for any date reduction under consideration.

Reductions for a Severe Medical Condition

255-40-028 (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90; 10/15/91)

- (1) The Board may consider [R]reductions in prison terms [may be considered] when any prisoner, regardless of whether [his/her] they committed their crime [was committed] before or after November 1, 1989, is suffering from a severe medical condition. The following information must accompany a request for reduction [must be accompanied by]:
- (a) a medical authority's report, [prepared by a medical authority] which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) the institution superintendent's [a] recommendation [from the superintendent of the institution]; and
 - (c) [a recommendation from the Director of] the Department of Corrections Director's recommendation [.]; and

(d) [a] the Governor's commutation [from the Governor] for those sentenced to life in prison or death for aggravated murder [or for those sentenced to an unexpired minimum term pursuant to ORS 161.610.]

(2) [Should the medical condition be such that] If a hearing may [be threatening to] threaten the health and safety of the prisoner or the Board, the Board shall consider the reduction [shall be granted] administratively [,] and may grant it upon an affirmative majority vote [with the concurrence of the majority of the Board].

Who May Appear

255-40-030 (2/2/79; 5/31/85, repealed)

Notice; Disclosure; Record

255-40-035 (2/1/79; 4/4/88, temporary; 5/19/88)

The notice, disclosure, and record making provisions of Division 30 shall apply to all hearings, and reviews granted under this Division.

Personal Review Packets

255-40-040 (4/4/88, temporary; 5/19/88; 11/1/89)

The Personal Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psychological evaluations (last 6 months);
- (4) recommendation to reset the release date to an earlier date;
- (5) correspondence;
- (6) field parole analysis report or report of similar content; and
- (7) court orders.

DIVISION 70

CONDITIONS OF PAROLE

Conditions Not Limited by Exhibit J (ORS 144.096, 144.102, 144.270)

255-70-001 (5/31/85; 11/3/86, temporary; 4/1/87; 4/15/88, temporary; 5/19/88;
7/1/88; 10/18/88; 4/5/90)

- (1) Conditions of parole may be imposed by the Board pursuant to OAR 255-70-015.
- (2) Conditions of post-prison supervision may be approved by the Board pursuant to OAR 253-11-001.
- (3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

Offender Return to County of Residency (ORS 144.270(5))

255-70-003 (11/1/89; 10/15/91)

- (1) Unless the Board waives the condition, the Board shall order as a condition of parole or post-prison supervision that an offender reside for the first six months in the county where the offender resided on the date of the last arrest for a crime resulting in imprisonment.
 - (2) (a) The Board or the Department of Corrections may establish the county of residency [may be established] by obtaining the last address of record at the time of the offense from:
 - (A) An Oregon driver's license , regardless of its validity;
 - (B) The Department of Revenue;
 - (C) The Department of State Police, Bureau of Criminal Identification; [or]
 - (D) The Department of Human Resources [.] ; and
 - (E) The Department of Corrections.
 - (b) If the records do not disclose the county of residency [cannot be established], the Board or the Department shall find the offender [shall be considered to have] resided in the county where she or he committed the crime [was committed].
- (3) Upon motion of the Board, an inmate, a victim, or a district attorney, the Board may waive the residency requirement after [making a] finding [that one of the following conditions has been met]:
 - (a) the inmate [provides] provided proof of a job with no set ending date in a county other than the established county of residence;
 - (b) the inmate poses a significant danger to the victim;
 - (c) the victim or victim's family poses a significant danger to the inmate residing in the county of residence;

- (d) the inmate has a spouse or biological or adoptive family, residing in other than the county of residence, who will be materially significant in aiding in the rehabilitation of the offender and in the success of the parole or post-prison supervision period;
- (e) the Board requires that the inmate [is required as a condition of parole or post-prison supervision to] participate in a treatment program which is not available in [or located in] the county of residence;
- (f) the inmate desires [to be released] release to another state or [there is a detainer from] another state has a detainer; or
- (g) other good cause.

Parolee Placement in Community Corrections Centers: Standards; Limitations
255-70-005 (2/1/79; 5/31/85, repealed)

Guidelines on General Condition Relating to "Best Interest" Return
255-70-010 (2/1/79; 5/31/85; 11/3/86, temporary; 4/1/87; 5/19/88, repealed)

Establishing Conditions
 (ORS 144.096, 144.098, 144.102, 144.125, 144.185, 144.270)
255-70-015 (5/19/88; 4/5/90)

- (1) The Board may order an exit interview prior to the prisoner's release date to review the prisoner's case and set or approve conditions. See Division 60 for exit interview procedures.
- (2) If the Board decides to waive an exit interview, it shall specify the condition(s) of parole to be added to the parole order at the prison term hearing.
- (3) If the Board decides to waive an exit interview, it shall specify, in an order given to the offender upon release from incarceration, the condition(s) of post-prison supervision. The decision may be made by administrative file pass.
- (4) Once the conditions have been established, the conditions may be altered according to the following procedures:
 - (a) by administrative file pass, if the alteration is before the prisoner's release on parole or post-prison supervision or if a condition is deleted after release; and
 - (b) at a cite to show cause hearing, if the alteration is after release and the offender does not consent to the addition of conditions pursuant to Exhibit P.
- (5) A cite to show cause hearing under section (1) of this rule shall be conducted pursuant to the rules governing parole revocation hearings in Division 75.

- (3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active community supervision, the waiver of the hearing indicates acceptance of the modifications.
- (4) If the parolee/offender waives the right to a hearing, the parolee/offender may offer a written or verbal statement pertaining to the violation.
- (5) The Hearings Officer must submit the written waiver of the right to a hearing [must be submitted] to the Board of Parole and Post-Prison Supervision's designated representative within five (5) days after the parolee/offender has waived the hearing.
- (6) The person delivering the notice of rights shall tape record [A]any statement made [to the designated representative] at the time of waiver [must be tape recorded].
- (7) If the parolee/offender waives the right to a hearing, the Hearings Officer ~~[will]~~ shall submit to the Board the following:
 - (a) a Notice of Rights form;
 - (b) any written parolee/offender statements and/or a summary of oral statements;
 - (c) the Hearing Report Summary; and
 - (d) any supporting information.

Board Rejection of Waiver

255-75-030 (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88)

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

Hearings Process

255-75-031 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89)

- (1) The parole and post-prison supervision officer will present information at the hearing and arrange for the presence of witnesses for the state and present evidence, unless the hearing is waived.
- (2) The Hearings Officer will make a tape recording of the hearing.

Representation/Ability to Pay Attorney Fees

255-75-035 (2/1/79; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 10/15/91)

- (1) In all cases, the parolee/offender is entitled to representation by an attorney at the parolee's/offender's own expense.

- (2) If the Hearings Officer deems the parolee/offender [is deemed] indigent, and unable to pay for an attorney, the parolee/offender may request representation by a Board appointed attorney, if the parolee/offender makes a timely and colorable claim that:
- (a) the parolee/offender has not committed the alleged violation;
 - (b) there are substantial or complex mitigating circumstances which make revocation inappropriate even if the parolee/offender admits violation [is admitted] or it is a matter of record; or
 - (c) the parolee/offender appears incapable of representing himself/herself.
- (3) If the parolee/offender requests a Board appointed attorney [is requested by the parolee/offender], the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. [Where] When the Board approves payment [is approved], such payment shall not exceed [~~\$30~~] \$40 per hour and \$200 per case. The attorney must send the Board a [B]billing [must be received] within 90 days of the violation hearing.
- (4) [In those instances where] When the Hearings Officer refuses to appoint an attorney, the Hearings Officer shall state the grounds for refusal [shall be stated] in the record.

Board Subpoenas; Witness or Documents

~~255-75-036 (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 12/?/91)~~

- (1) Parolees/Offenders shall make their own arrangements for calling and presenting witnesses, however, [U]pon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Board or designated representative shall, or the Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. [Parolees/offenders will make their own arrangements for presenting witnesses.] In addition, the Board or its designated representative may subpoena documents when relevant. The Board or designated representative shall use this subpoena power only when the witness's cooperation is in doubt.
- (2) The Board shall reimburse fees and mileage as prescribed by law to [W]itnesses appearing under subpoena, other than the parties, state officers or employees, [shall be reimbursed fees and mileage by the Board of Parole and Post-Prison Supervision as prescribed by law], provided the Hearings Officer certifies that the witness's testimony was relevant and material to the hearing.
- (3) The parolee/offender may present witnesses who [may] have relevant information, and has the right to confront the persons or witnesses who have presented information against the parolee/offender.
- (4) The Hearings Officer may deny [C]confrontation of witnesses by the parolee/offender, [may be denied] if the Hearings Officer finds that confrontation would subject the witness to the risk of harm if the witness's identity was disclosed.

DIVISION 92

PAROLE SUPERVISION UNDER BM10
(ORS 144.305)

Application of Division 92

255-92-005 (12/16/87; 11/1/89)

Division 92 applies to parole supervision for all prisoners who committed crimes on or after December 4, 1986 and prior to November 1, 1989. (See Ballot Measure 10, passed November 4, 1986 and HB2250, 1989.)

Definitions

255-92-010 (12/16/87; 5/19/88, repealed)

Duration of Parole

255-92-015 (12/16/88; 11/1/89; 10/15/91)

- (1) Parole shall extend the entire term of a prisoner's sentence.
- (2) Notwithstanding subsection (1) of this section, the Board may discontinue active supervision on parole [may be discontinued] after three years, if [the Board] it finds that:
 - (a) the parolee does not constitute a threat to the parolee or society;
 - (b) [the parolee's behavior has been exemplary] the parolee has substantially complied with the conditions of active supervision; and
 - (c) the parolee has paid any restitution or compensatory fine owed [has been paid].
- (3) When the Board discontinues active parole supervision [is discontinued], the Board shall place the parolee [shall be placed] on inactive parole. However, this subsection shall not prohibit the Board from reinstating active parole supervision.

Period of Active Supervision; Exceptions

255-92-020 (12/16/87)

- (1) The minimum period of active supervision on parole shall be the length of the prisoner's sentence or three years, whichever is shorter.
- (2) Notwithstanding subsection (1) of this section, a parolee will only be removed from active supervision if the Board finds that the parolee has satisfied the provisions of OAR 255-92-015 (a),(b) and (c).
- (3) During parole violation proceedings, the period of active supervision is suspended and the Board shall retain jurisdiction over the parolee until the proceedings are resolved.
- (4) The Board may reinstate a parolee on active supervision under the provisions of OAR 255-92-040.

Effect of Judicial Mandatory Minimum Sentences on Prison Terms Under 161.610
255-35-024 (5/31/85; 5/19/88, repealed)

Setting a Parole Release Date: When Matrix Range Exceeds Good Time Date

(ORS 144.780-787)

255-35-025 (2/1/79; 5/1/80, temporary; 11/25/81, temporary; 5/19/82; 5/31/85;
 5/19/88; 7/1/88; 4/5/90; 10/5/90, temporary; 1/16/91; 10/15/91)

- (1) When the Board chooses to set a parole release date on a sentence with a statutory good time date which calls for an earlier release than the guideline range indicates (due to a short sentence), the minimum initial prison term shall be 6 months and the maximum shall be as follows:
 - (a) Six months from the statutory good time date on a sentence of at least one year and less than three years;
 - (b) Nine months from the statutory good time date on a sentence of three years and less than six years.
 - (c) Twelve months from the statutory good time date on a sentence of six or more years.

(2) On short sentences which call for an earlier release date than the guideline range indicates, the Board [following] shall [apply]:

- (a) [Using] Use the correct crime category for the principal crime [,] and apply the closest range within which the statutory good time date minus the times found in section (1)(a), (b), or (c) [will fall] falls and which [will provide] provides a fully applicable range.
- (b) For subsequent consecutive sentences use the base range unless the principal crime is one of those listed in BAR 255-35-021(4).
- (c) For example:

	<u>Sent.</u>	<u>GTD</u>	<u>(1)(c)</u>	<u>H/R</u>	<u>CC</u>	<u>Range</u>	<u>Use</u>
Robbery I	10 yr.	80 mo.-12 mos.=68		2	6	90-130	44-56
Theft I	5 yr.			2	1	6 - 6	<u>6- 6</u> 50-62

(3) On sentences which are too short to fit within the matrix ranges for the correct crime category, the Board shall set the maximum prison term [shall be] at [one day] two days prior to the good time date.

(4) When a prisoner earns good time which causes the good time date to fall earlier than the current parole release date, the Board shall reset the parole release date to two days prior to the good time date to ensure that all prisoners serve a period of parole supervision in accordance with the intent of ORS 144.245.

DIVISION 75

PROCEDURES FOR RESPONSES TO PAROLE AND POST-PRISON SUPERVISION CONDITIONS VIOLATIONS

Definitions

255-75-001 [2PB 1-1985, f. & ef. 2-28-85;
PAR 1-1988(Temp),
f. 3-11-88, ef. 3-14-88;
Repealed by PAR 6-1988,
f. & ef. 5-19-88]

Suspension of Parole or Post-Prison Supervision; Citation to Appear

255-75-002 (1) When the supervising officer or other person informs the Board of reasonable grounds to believe that a person has violated the conditions of parole or post-prison supervision, or that parole is no longer in the best interests of the parolee or the community, and that the revocation of parole or post-prison supervision may be justified or, in the case of parole only, an extension of supervision may be justified, the Board may:

- (a) Suspend the running of the sentence and parole or post-prison supervision term and order the offender arrested and detained pending a violation hearing; or
 - (b) Issue a citation to appear at a violation hearing without first suspending parole or the post-prison supervision term or ordering detention.
- (2) One Board member may issue a suspend and detain warrant or a citation to appear at violation hearings.
- (3) The Board may authorize, in writing, that its designated representative may issue citations to appear at a violation hearing.

Stat. Auth.: ORS 144.025(3), 144.106, 144.331 & 144.334

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 6-1992(Temp), f. & cert. ef. 6-24-92; PAR 8-1992, f. & cert. ef. 10-9-92

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

Criteria for Allowing Offender to Remain in Community Pending Hearing

255-75-003 In determining whether to allow an offender to remain in the community pending the violation hearing and final order, the Board or the Hearings Officer may consider:

- (1) The seriousness of the allegations and the risk to the offender or the community.
- (2) The likelihood of the offender absconding or failing to appear at the hearing.
- (3) The availability of resources in the community such as residence or employment.
- (4) Any recommendation by the parole and post-prison supervision officer.
- (5) The Hearings Officer may release offenders detained under a Board warrant, after the violation hearing, when recommending local sanctions or intervention and continuance of parole or post-prison supervision.

Stat. Auth.: ORS 144.331(2)

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93

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

Guidelines for "Best Interest" Return

255-75-004 Revocation of parole or post-prison supervision when it is not in the best interest of the offender or in the best interest of society shall refer to the following situations:

(1) The offender is suffering from an emotional or psychological disturbance which makes the offender dangerous to self or others if left in the community. The following behavior may indicate a dangerous emotional or psychological disturbance:

(a) Showing a present capacity to carry out any statements or threats of violence against the offender or the community; or

(b) Circumstances and conduct similar to that which led to the initial incarceration; or

(2) The offender's behavior cannot be adequately controlled if left in the community.

Stat. Auth.: ORS 144.270(2)(g) & 144.350(2)

Hist.: PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Hearing Requirement: Procedure

255-75-005 (1) Except as otherwise provided by these rules, before the Board can revoke parole or post-prison supervision, modify conditions, or extend active parole supervision, the Board or a Hearings Officer shall conduct a hearing.

(2) The Board or Hearings Officer need not conduct a hearing when the offender waives the hearing and/or consents to the order or when the Board extends supervision for offenders whose crimes occurred on or after December 4, 1986 and before November 1, 1989 (BM10).

(3) Except in the cases set forth in OAR 255-75-015 and section (6) of this rule, the Board or Hearings Officer shall conduct the hearing within a reasonable time after the supervising officer or other person notifies the Board or Hearings Officer of the alleged violations.

(4) If an in-custody violation hearing and a final order cannot be accomplished within 15 days of arrest, the supervising officer or Hearings Officer shall request a non-bailable suspend and detain warrant from the Board.

(5) Before a Hearings Officer can modify conditions or order more than 15 days of local confinement without the offender's consent, the Hearings Officer shall conduct a violation hearing. Unless the Hearings Officer recommends a sanction, which is beyond his or her authority to order, the Hearings Officer may issue a final order subject to approval of the Board, but immediately effective.

(6) A hearing is not required when an intermediate local sanction or intervention involves local confinement of 15 days or less or when the offender consents to other sanctions, interventions or conditions. If the offender contests the allegations, the offender may request a hearing.

Stat. Auth.: ORS 144.106(3), 144.108, 144.331(2), 144.343, 144.350 & 144.370

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92

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

Method of Hearing

255-75-006 The Hearing Officer may conduct hearings by teleconference. The Hearing Officer shall conduct person-to-person hearings in the following situations:

(1) The alleged violations are contested and the offender or the offender's attorney shows that the witness's credibility, including observation of the witness's demeanor is necessary.

(2) Physical exhibits may be part of the record and viewing the exhibits is essential.

(3) There are unusual circumstances not covered by this section, determined at the Hearing Officer's discretion.

(4) When circumstances dictate that the Hearing Officer cannot conduct a teleconference hearing (i.e., no telephone available for hearings in the confining facility).

Stat. Auth.: ORS 144.035(5) & 144.343(1)

Hist.: 2PB 7-1981(Temp), f. & ef. 11-4-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Designated Representative Conducts Hearing

255-75-007 (1) The Board or the Board's designated representative shall conduct the probable cause and violation hearing.

(2) "Designated representative" shall include those persons designated by the Department of Corrections or the Board of Parole and post-prison supervision as Hearings Officers.

Stat. Auth.: ORS 144.104(1), 144.331 & 144.343

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Location of Hearing

255-75-008 [2PB 1-1984(Temp),
f. & ef. 11-19-84]

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

255-75-010 [2PB 1-1979, f. & ef. 2-1-79;

Suspended by 2PB 1-1984(Temp),

f. & ef. 11-19-84;

Repealed by 2PB 1-1985,

f. & ef. 2-28-85]

Procedures

When Parolee/Offender in Another Jurisdiction: Return

255-75-015 (1) The Board may suspend parole or post-prison supervision and may order the offender's return to prison in Oregon without first conducting a hearing when:

(a) The offender has, without permission, left the state to which the Board released the offender on parole or post-prison supervision, and is in custody in another jurisdiction;

(b) The offender is in custody in another correctional facility;

(c) The offender has absconded from supervision and the offender's whereabouts are unknown; or

(d) The offender has been convicted of a new crime.

(2) Except as provided in ORS 144.345(2) and OAR 255-75-005(6), the Board or the Hearings Officer shall conduct a violation hearing after the offender returns to prison in Oregon.

Stat. Auth.: ORS 144.340, 144.343(2) & 144.349

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 7-1991(Temp), f. & cert. ef. 10-15-91; PAR 3-1992, f. & cert. ef. 4-15-92

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

Rights of a Parolee at a Formal Hearing

255-75-020 [2PB 1-1979, f. & ef. 2-1-79;
Suspended by 2PB 1-1984(Temp),
f. & ef. 11-19-84;
Repealed by 2PB 1-1985,
f. & ef. 2-28-85]

Rights at Hearing

255-75-025 (1) The Board or the supervisory authority shall provide the offender a written notice of the hearing at least three working days prior to the hearing.

(2) The hearing notice shall include:

- (a) Notice of Rights as provided in ORS 144.343(3);
- (b) A written statement of alleged violations; and
- (c) Any documents or evidence which form the basis of the alleged violations;
- (d) The date and location of the hearing.

(3) The offender may elect to waive the three working day notification period prior to the hearing and begin the hearing immediately.

(4) The Hearings Officer shall tape record the offender's verbal statement waiving the three working day notification period.

(5) The Hearings Officer shall ascertain whether the offender has understood the allegations and the offender's rights and whether the offender can read, hear and understand the language of the proceedings. The Hearings Officer shall postpone the hearing, if needed assistance is not readily available.

Stat. Auth.: ORS 144.343(3)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Waiver of Hearing

255-75-026 (1) In all cases, the offender may waive the right to a hearing by signing a Notice of Rights form. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.

(2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that the offender violated the conditions in whole or in part and that the Board, the Hearings Officer, or the supervisory authority may order intermediate local sanctions, that the Board or the Hearings Officer may order modified conditions of supervision, or that the Board may order extension of active supervision or return to prison, without further hearing.

(3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active community supervision, the waiver of the hearing indicates acceptance of the modifications.

(4) If the offender waives the right to a hearing, the offender may offer a written or verbal statement pertaining to the dispositional phase of the violation hearing.

(5) The offender shall submit the written waiver of the right to a hearing to the Hearings Officer within five days after the waiver.

(6) The person delivering the Notice of Rights shall tape record any statement made at the time of waiver.

(7) If the offender waives the right to a hearing, the Hearings Officer shall submit to the Board the following:

- (a) A notice of Rights form;
- (b) Any written offender statements and/or a summary of oral statements;

- (c) The Hearing Report Summary, including a history of local interventions and sanctions ordered and a recommendation regarding disposition;
- (d) Any supporting information, including the supervising officer's report and other documentary evidence submitted.

Stat. Auth.: ORS 144.050, 144.140 & 144.343

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 10-1988(Temp), f. & ef. 7-14-88, PAR 15-1988, f. & ef. 9-20-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1992, f. & cert. ef. 4-15-92

Exh P

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

Board Rejection of Waiver

255-75-030 If the Board is not satisfied that the offender knowingly and intelligently waived his or her hearing rights or if it needs more information before making its decision, it may order a new hearing.

Stat. Auth.: ORS 144.343

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1992, f. & cert. ef. 10-9-92

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

Hearings Process

255-75-031 (1) The Hearings Officer shall conduct the violation hearing reasonably near the place of the alleged violation or the place of confinement or may conduct the hearing by teleconference.

(2) Unless the Hearings Officer finds good cause on the record, the parole and post-prison supervision officer shall present information and evidence at the hearing and arrange for the presence of witnesses for the state. The parole and post-prison supervision officer shall make dispositional recommendations.

(3) The Hearings Officer shall make a tape recording of the hearing.

Stat. Auth.: ORS 144.343

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Representation/Ability to Pay Attorney Fees

255-75-035 (1) In all cases, the offender is entitled to representation by an attorney at the offender's own expense.

(2) If the Hearings Officer deems the offender indigent, and unable to pay for an attorney, the offender may request a Board appointed attorney, if the offender makes a timely and colorable claim that:

(a) The offender has not committed the alleged violation;

(b) There are substantial or complex mitigating circumstances which make revocation inappropriate even if the offender admits violation or it is a matter of record; or

(c) The offender appears incapable of representing himself/herself.

(3) If the offender requests a Board appointed attorney, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. When the Board approves payment, it shall not exceed \$40 per hour and \$200 per case. The attorney shall send the Board a billing within 90 days of the violation hearing.

(4) When the Hearings Officer refuses to appoint an attorney, the Hearings Officer shall state the grounds for refusal in the record.

EXH P

Stat. Auth.: ORS 144.343

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 10-1988(Temp) (f. & ef. 7-14-88); PAR 15-1988, f. & ef. 9-20-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 6-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92

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

Board Subpoenas; Witness

255-75-036 (1) Offenders shall make their own arrangements for calling and presenting witnesses, however, upon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Board or Hearings Officer shall, or the Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. In addition, the Board or the Hearings Officer may subpoena documents when relevant.

(2) The Board shall reimburse fees and mileage as prescribed by law to witnesses appearing under subpoena, other than the parties, state officers or employees, provided the Hearings Officer certifies that the witness's testimony was relevant and material to the hearing.

(3) The offender may present witnesses who have relevant information, and has the right to confront the persons or witnesses who have presented information against the offender.

(4) The Hearings Officer may deny confrontation of witnesses by the offender if the Hearings Officer finds that confrontation would subject the witness to the risk of harm if the witness's identity was disclosed.

(5) If the Hearings Officer denies confrontation of witnesses, the Hearings Officer shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Stat. Auth.: ORS 144.347

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1992, f. & cert. ef. 4-15-92

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

Compelling of Witnesses; Contempt

255-75-040 The Board, the Hearings Officer or party requesting a subpoena may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Stat. Auth.: ORS 144.347(4)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 8-1992, f. & cert. ef. 10-9-92

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

Probable Cause; Preliminary Hearing; Deferral of Revocation Hearing

255-75-042 (1) The Board may use evidence received and the order of the court at the preliminary hearing or a conviction to establish that probable cause exists to believe that the offender has committed a violation of a condition of parole or post-prison supervision.

(2) Should the offender waive the right to a preliminary hearing, the waiver shall constitute a waiver of a probable cause hearing.

(3) When the Board defers completion of a violation hearing until the trial is over and until the court or the parole and post-prison supervision officer notifies the Board of the final disposition of the case, the Board shall use a finding of probable cause to support the Board's decision to suspend and detain an offender charged with the commission of a new crime.

(4) Notwithstanding section (3) of this rule, the Board shall not extend a deferral following a finding of probable cause for a period greater than 120 days from the date of the preliminary hearing or waiver, unless the offender is released from jail pending final disposition of the case.

Stat. Auth.: ORS 144.050, 144.140 & 144.343

Hist.: 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 11-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1992, f. & cert. ef. 4-15-92

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

Evidence; Subpoena of Documents

255-75-045 (1) The Hearings Officer may receive the following evidence at a violation hearing:

- (a) Oral testimony under oath;
 - (b) Affidavits or other sworn statements;
 - (c) Letters;
 - (d) Documents;
 - (e) Reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole and post-prison supervision officers, doctors, psychologists, attorneys);
 - (f) Uncertified copies of letters, documents, or reports shall be admissible in a revocation hearing if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable;
 - (g) Evidence of criminal activity even when charges have been dismissed, not brought, or the offender has been acquitted at trial;
 - (h) Reliable hearsay evidence; or
 - (i) Any evidence determined to be material, relevant, and reliable, regardless of its nature.
- (2) Upon the request of any party to the hearing, the Board of Parole and Post-Prison Supervision, or the Hearings Officer, may issue a subpoena duces tecum upon a proper showing of relevant and reasonable scope of the documentary or physical evidence being sought. The offender shall make the offender's own arrangement for presenting evidence.
- (3) The Hearings Officer may exclude documents/physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.
- (4) The Hearings Officer may classify documents or physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
- (5) The Hearings Officer shall make evidence received without disclosing the identity of the witness a sealed part of the record.
- (6) When a witness is unavailable, the Hearings Officer may receive statements in the form of documentary evidence. The Hearings Officer shall determine at an in-camera hearing the reliability and relevance of the absent witness' statement.

Stat. Auth.: ORS 144.343 & 144.347

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 12-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Postponement

255-75-046 (1) With Board approval, the Hearings Officer may postpone a hearing for good cause and for a reasonable period of time, which shall not exceed 120 days.

- (2) The criteria for "good cause" includes, but is not limited to:
- (a) The preparation of defense;
 - (b) Illness or unavailability of the offender or other persons;
 - (c) Gathering of additional evidence; or
 - (d) Avoiding interference with an ongoing police investigation or pending prosecution.

Stat. Auth.: ORS 144.050, 144.140 & 144.343

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

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

255-75-050 [2PB 1-1979, f. & ef. 2-1-79;

Suspended by 2PB 1-1984(Temp),

f. & ef. 11-19-84;

Repealed by 2PB 1-1985,

f. & ef. 2-28-85]

Reopening Hearings: Criteria; Procedure

255-75-055 (1) After the completion of a violation hearing, and before a final decision, the Board may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.

(2) The Board shall send the the offender notice of the decision to reopen the hearing and the new information to be considered. The hearing shall conform to the procedures of this Division.

Stat. Auth.: ORS 144.050, 144.140 & 144.343

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Hearings Record

255-75-056 (1) The hearings record shall include:

(a) A Hearings Report Summary;

(b) A written statement of alleged violations;

(c) Supporting materials, including documentary evidence admitted;

(d) A Notice of Rights;

(e) The Order of Parole or Post-Prison Supervision;

(f) A notice of time and place of hearing;

(g) A tape recording of the advice of rights and the hearing;

(h) The supervising officer's report, including recommended dispositions; and

(i) The history of supervision, local sanctions and modifications.

(2) The Hearings Officer shall retain the tape recording used in subsection (1)(g) of this rule for two years.

Stat. Auth.: ORS 144.343

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Record of Parole Revocation Hearing

255-75-060 [2PB 1-1979, f. & ef. 2-1-79;

Suspended by 2PB 1-1984(Temp),

f. & ef. 11-19-84;

Repealed by 2PB 1-1985,

f. & ef. 2-28-85]

Ten-Day Period for Parolee's/Offender's Evidence and Exceptions

255-75-065 (1) Within a reasonable time after the hearing, the Hearings Officer shall provide his or her report to the offender.

(2) Unless the offender waives the right to respond, the offender shall have ten days from the date the Hearings Officer mails the report to the offender to submit evidence and make written exceptions to the report for the Board's consideration.

(3) If the offender waives the right to respond, the Hearings Officer shall include the waiver in the Hearings Officer's report to the Board.

(4) When a Hearings Officer makes a final order pursuant to Board authority granted in writing, the offender shall not have a ten day period within which to submit evidence and written exceptions. The offender may appeal a Hearings Officer's order under Division 80 of these rules.

Stat. Auth.: ORS 144.343(7)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92

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

Final Action: Authority

255-75-067 Pursuant to a letter of agreement:

(1) A supervising officer may order intermediate local sanctions, including a local confinement sanction not exceeding 15 days. When the supervising officer orders a local confinement sanction, the officer shall give the offender a notice of rights as provided in OAR 255-75-005(6). The supervising officer's supervisor shall review the decision to order a local confinement sanction. The supervising officer shall send a copy of the order to the Board;

(2) After a hearing, a Hearings Officer may order intermediate local sanctions. A local confinement sanction may not exceed 30 days. The Hearings Officer shall send a copy of the final order and report to the Board and, upon request, shall send the record of the hearing as described in OAR 255-75-056. The Hearings Officer shall retain the record for two years;

(3) After a hearing, the Board may order intermediate local sanctions. A Board ordered local confinement sanction may exceed 30 days;

(4) The Board may override any sanction ordered by a supervising officer or Hearings Officer.

Stat. Auth.: ORS 144.108 & 144.343

Hist.: PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93

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

Final Action: Procedure

255-75-070 (1) When a case comes before the Board for decision, the Board shall consider the Hearings Officer's report, and the offender's evidence and exceptions. The Board shall enter a decision, and shall record the individual votes of the Board members in accordance with **Exhibit 1** and the sanction/intervention guidelines.

(2) The Board may adopt or reject any or all the Hearings Officer's findings and recommendations. The Board may find a violation of conditions not alleged, if the documentary evidence admitted at the hearing supports the finding and the evidence is uncontroverted. The final order shall indicate the findings adopted by the Board.

(3) A copy of the final order shall be forwarded to the offender with notice of the right to administrative and judicial review.

[ED. NOTE: The Exhibit(s) referred to or incorporated by reference in this rule are available from the Board of Parole and Post-Prison Supervision.]

relate to
Exh K?

Stat. Auth.: ORS 144.135 & 144.343

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 17-1988, f. & ef. 10-18-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92

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

Rerelease Order

255-75-072 (1) At the time of a revocation decision, the Board shall make an order concerning rerelease.

(2) In the rerelease order, the Board may:

- (a) Continue parole or post-prison supervision pursuant to OAR 255-75-075 or 255-75-080; or
- (b) Set the rerelease date in accordance with the OAR 255-75-079; or
- (c) Defer the rerelease decision pending a future disposition hearing.

(3) Upon notification that parole or post-prison supervision has terminated by operation of ORS 144.345(2), the Board shall apply section (2) of this rule.

Stat. Auth.: ORS 144.346 & 144.395

Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 7-1991(Temp), f. & cert. ef. 10-15-91; PAR 3-1992, f. & cert. ef. 4-15-92

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

Additional Sentences Result in Revocation Without Hearing

255-75-074 [PAR 7-1991(Temp),

f. & cert. ef. 10-15-91;

Suspended by PAR 8-1991(Temp),

f. & cert. ef. 11-6-91]

Parolees/Offenders Convicted of New Crime in This or Another Jurisdiction

255-75-075 (1) If an offender has violated parole or post-prison supervision as a result of a conviction of a new crime and the court has ordered a prison term, parole or post-prison supervision terminates without a violation hearing by operation of ORS 144.345(2).

(2) Upon release from custody, if the Oregon sentence has not expired, Oregon supervision shall resume either in another jurisdiction under Interstate Compact or in Oregon. If, in preparing the rerelease plan, the Department of Corrections cannot arrange supervision under Interstate Compact, the offender shall report to Oregon for supervision.

(3) The Board shall make extradition decisions on a case-by-case basis in cooperation with the holding jurisdiction.

(4) If the offender absconded supervision, the Board shall count the inoperative time from the date the Board issued its arrest and detention warrant to the warrant confirmation date. The Board shall forward the dates to the Department of Corrections for use in recalculating the sentence good time and expiration dates.

Stat. Auth.: ORS 144.345, 144.380 & 144.610 - 144.622

Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 7-1991(Temp), f. & cert. ef. 10-15-91; Suspended by PAR 8-1991(Temp), f. & cert. ef. 11-6-91; PAR 3-1992, f. & cert. ef. 4-15-92

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

Designation of Parole Failure

255-75-076 [2PB 1-1984(Temp),

f. & ef. 11-19-84;
2PB 1-1985, f. & ef. 2-28-85;
PAR 1-1988(Temp),
f. 3-11-88, ef. 3-14-88;
Repealed by PAR 6-1988,
f. & ef. 5-19-88]

Commencement Date for Prison Term Following a Violation

255-75-078 (1) The commencement date for a new commitment which is concurrent to an incarceration sanction for a violation of parole or post-prison supervision shall be the sentencing date for the new crime.

(2) The commencement date for a new commitment which is consecutive to an incarceration sanction for a violation of parole or post-prison supervision shall be either the rerelease date established for the violation or the sentencing date for the new crime, whichever is later.

(3) Notwithstanding section (2) of this rule, when the new commitment is consecutive to a sanction for a violation, the full Board may treat the violation sanction and the new commitment as if they were concurrent. If treated as concurrent, the commencement date for the new commitment shall be the sentencing date for the new crime plus adjustment for credit for time served.

(4) If the offender is returned with a parole or post-prison supervision violation and a new sentence which is consecutive to the sentence for which the offender was on parole, the commencement date for the new conviction shall be the date parole was revoked, if so stated on the court order.

Stat. Auth.: ORS 144.346, 144.395, 144.780 & 144.783

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Guidelines for Rerelease

255-75-079 (1) For technical violation(s):

(a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation;

(b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 90 days for each return, not to exceed the total sanction days allowed in OAR 253-11-004.

(2) For conduct constituting a crime:

(a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation;

(b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 180 days, not to exceed the total sanction days provided in OAR 253-11-004.

(3) For conduct constituting a crime and resulting in automatic revocation, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.

(4) Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.

(5) Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.

(6)(a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest for the violation which resulted in the revocation of parole or post-prison supervision;

(b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) shall be the sentencing date;

(c) If the jailor, hearing officer, or Board releases the parolee/offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.

(7) Offenders designated for the Department of Corrections Parole Violators Project may serve repeated incarcerations of up to 180 days.

(8) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.

(9) Notwithstanding sections (1) - (8) of this rule, the Board may choose to postpone rerelease on parole pursuant to Divisions 50 and 60 of this chapter.

(10) Notwithstanding sections (1) - (9) of this rule, the Board may choose to deny rerelease on parole pursuant to OAR 255-75-096.

(11) Intermediate local sanctions do not count toward the sanction limits.

Stat. Auth.: ORS 144.108, 144.120(4), 144.125, 144.232, 144.345, 144.346 & 144.395

Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1989, f. & ef. 11-1-89; PAR 6-1990(Temp), f. & cert. ef. 10-15-90; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93

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

Continuance on Parole or Supervision

255-75-080 (1) The Board or the Hearings Officer may continue an offender on parole or post-prison supervision and order modification of conditions and/or sanction to time served.

(2) The Board, the Hearings Officer, or the supervisory authority may continue an offender on parole or post-prison supervision and order intermediate local sanctions as limited by OAR 255-75-067 and pursuant to letters of agreement.

Stat. Auth.: ORS 144.106, 144.343 & 144.345(1)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92

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

Authority of Revocation Panel to Set New Parole Release Date for Parole Violators

255-75-082 [2PB 7-1981(Temp),

f. & ef. 11-4-81 thru 5-2-82;

Suspended by 2PB 1-1984(Temp),

f. & ef. 11-19-84;

Repealed by 2PB 1-1985,

f. & ef. 2-28-85]

Parole Violators with No New Commitment; Action Required

255-75-085 [2PB 1-1979, f. & ef. 2-1-79;

2PB 1-1984(Temp), f. & ef. 11-19-84;

2PB 1-1985, f. & ef. 2-28-85;

PAR 1-1988(Temp), f. 3-11-88,

ef. 3-14-88;

PAR 6-1988, f. & ef. 5-19-88;

Suspended by PAR 1-1989(Temp),

f. & ef. 4-19-89]

*became effective again
10/16/89*

Guidelines for Reparole

255-75-090 [2PB 1-1979, f. & ef. 2-1-79;
2PB 1-1984(Temp),
f. & ef. 11-19-84;
2PB 1-1985, f. & ef. 2-28-85;
PAR 1-1988(Temp),
f. 3-11-88, ef. 3-14-88;
PAR 6-1988, f. & ef. 5-19-88;
Suspended by PAR 1-1989(Temp),
f. & ef. 4-19-89;
Repealed by PAR 4-1989,
f. & ef. 11-1-89]

Variation from Guidelines for Aggravation/ Mitigation Permitted

255-75-095 [2PB 1-1984(Temp),
f. & ef. 11-19-84;
2PB 1-1985, f. & ef. 2-28-85;
PAR 6-1988, f. & ef. 5-19-88;
PAR 8-1988, f. & ef. 7-1-88;
Suspended by PAR 1-1989(Temp),
f. & ef. 4-19-89;
Repealed by PAR 3-1989,
f. 10-13-89, ef. 10-16-89]

Exh H?

Denial of Rerelease Consideration

255-75-096 (1) Upon a finding of aggravation pursuant to OAR 255-05-005, Exhibit 5 or **Exhibit 2** of this rule, the Board may deny rerelease on parole and require the parole violator to serve to the statutory good time date or, in the case of aggravated murder, for life. This action requires the affirmative vote of a majority of members, except that if the result is life imprisonment, the full Board must vote unanimously.

(2) Denial of rerelease on parole requires a future disposition hearing.

(3) Cases in which the Board sets a parole violator within the guidelines set forth in OAR 255-75-079 and the result requires the parole violator to serve to the end of the sentence, do not require a majority vote of all members.

[ED. NOTE: The Exhibit(s) referred to or incorporated by reference in this rule are available from the Board of Parole and Post-Prison Supervision.]

Exh H?

Stat. Auth.: ORS 137.320, 137.370, 144.005, 144.025, 144.035, 144.050, 144.079, 144.120, 144.140, 144.305, 144.343, & 144.783

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1989, f. & ef. 11-1-93; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91

Should be?

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

not amended 11/1/89

Time for Future Disposition Hearing

255-75-097 When the Board holds a future disposition hearing pursuant to OAR 255-75-072(2) or 255-75-096, the following timelines shall apply:

(1) If the offender has a new conviction, the Board may schedule the future disposition hearing at the same time as the new prison term hearing.

(2) If the offender has no new conviction or has no prison term hearing, the Board shall schedule the future disposition hearing within 60 days of return to the institution.

Stat. Auth.: ORS 144.050, 144.140 & 144.395

Hist.: PAR 1-1989(Temp), f. & ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Restoration of Statutory and Meritorious Goodtime

255-75-098 Upon recommendation of the superintendent of the institution, the Board may restore part or all of forfeited statutory and meritorious good time when:

- (1) There is no violation of parole; or
- (2) Parole is revoked on a best interest basis and there was no actual parole violation; or
- (3) Parole is revoked on a technical violation; or
- (4) Parolee is within 180 days of discharge; or
- (5) Parole is revoked for new criminal activity which is a misdemeanor or non person-to-person Class C felony: and
 - (a) The new criminal activity was already sanctioned at the local level; or
 - (b) The criminal activity is not of the same nature as the crimes for which the parolee was on parole.
- (6) An offender ordered to serve a term of incarceration as a sanction for a post-prison supervision violation is not eligible for earned-credit time.

Stat. Auth.: ORS 144.108(3) & 421.120

Hist.: PAR 1-1988(Temp), f. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92

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

Future Disposition Hearing Packet

255-75-100 The Future Disposition Hearing Packet shall contain:

- (1) Institution face sheet;
- (2) Revocation recommendation;
- (3) Final order of revocation;
- (4) Administrative action sheet;
- (5) Revocation hearing findings;
- (6) Board Action Form ordering parole or Board Action Form ordering post-prison supervision conditions;
- (7) Disciplinary report, when extension is recommended;
- (8) Recommendation regarding statutory good time and meritorious good time;
- (9) Correspondence;
- (10) Statements of imprisonment for violation; and
- (11) Face sheet from old parole analysis report or comparable report.

Stat. Auth.: ORS 144.040, 144.343, 144.345, 144.349, 144.350, 144.360, 144.370, 144.395 & 144.780

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 3-1989, f. 10-13-89, ef. 10-16-89

DIVISION 80

ADMINISTRATIVE APPEAL

Exhaustion of Remedies

255-80-001 (1) A Board order is final and effective the date it is signed, however, it is not final for purposes of the time period within which to appeal to the Court of Appeals until the offender exhausts his/her administrative review remedies.

(2) An offender has exhausted his/her administrative remedies after complying with OAR 255-80-005, and after the Board denies review, or grants review and either denies or grants relief. The Board shall notify the prisoner that exhaustion has occurred and the time for judicial appeal shall run from the mailing date of the notice.

Stat. Auth.: ORS 144.335

Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92

Procedure for Administrative Review

255-80-005 (1) An offender may request an administrative review by sending **Exhibit 1**, Administrative Review Request Form, to the Board concisely explaining how his or her case fits the criteria for review listed in OAR 255-80-010.

(2) The Board must receive requests for administrative review within 45 days after the mailing date on the the Board's final action on the reviewed issue.

(3) If the Board or its designee determines that the request is consistent with the criteria as defined in OAR 255-80-010 and 255-80-011, and meets the deadline requirements, the Board will resolve the matter using the procedures outlined in OAR 255-80-012.

(4) When the Board or its designee denies review, the Board send the offender written notice of the specific reasons for denial and the prior decision remains in effect.

[ED. NOTE: The Exhibit(s) referred to or incorporated by reference in this rule are available from the Board of Parole and Post-Prison Supervision.]

Stat. Auth.: ORS 144.335

Hist.: 2PB 1979, f. & ef. 2-1-79; 2PB 11-1981(Temp), f. & ef. 11-25-81; 2PB 1-1982, f. & ef. 5-19-82; 2PB 17-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92

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

Criteria for Granting a Review

255-80-010 The criteria for granting a review are:

- (1) The Board action is not supported by evidence in the record; or
- (2) Pertinent information was available at the time of the hearing which, through no fault of the offender, was not considered; or
- (3) Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions; or
- (4) The action of the Board is inconsistent with its rules or policies and the inconsistency is not explained; or
- (5) The action of the Board is in violation of constitutional or statutory provisions or is a misinterpretation of those provisions.
- (6) The action of the Board is outside its statutory grant of discretion.

Stat. Auth.: ORS 144.335 & 183.482(8)

Hist.: 2PB 1-1979, f. & ef. 2-1-79; PAR 6-1988, f. & ef. 5-19-88; PAR 18-1988, f. & ef. 12-6-88; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92

Limitations on Requests for Administrative Review

255-80-011 All administrative review requests will be screened by a Board member or a Board designee who may deny further review of the following matters:

- (1) Findings of aggravation when the Board has set the prison term within or below the matrix range;
- (2) Findings of aggravation when the Board has not overridden a judicial minimum and the prison term has been set equal to the judicial minimum;
- (3) Matter which have previously been appealed and decided on the merits by either the Board or the appellate court(s);
- (4) Board orders that were mailed more than 45 days prior to the request for review;
- (5) Subject matter of a hearing or review and/or Board order other than the Board order being appealed;
- (6) Matters that will not change the parole release date or conditions or length of supervision;
- (7) Board orders that are not final;
- (8) Errors previously corrected;
- (9) Order which sustains a minimum term and the prisoner does not contest the crime severity rating and history risk score;
- (10) Order which denies, grants or grants in part a prisoner's request for a prison term reduction based upon outstanding reformation under ORS 144.122;
- (11) Order which refers a prisoner for psychological evaluation;
- (12) Order which postpones a prisoner's release date because of:
 - (a) A Board finding of dangerousness under ORS 144.125(3) and OAR 255-60-012;
 - (b) A prisoner's refusal to submit to a psychological evaluation.
- (13) Order which postpones a prisoner's release date because of serious misconduct during confinement; or
- (14) Order which denies a prisoner's request under ORS 144.228(1) for an early parole consideration hearing.

Stat. Auth.: ORS 144.335

Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 4-1993, f. & cert. ef. 10-29-93

Administrative Review Procedure

255-80-012 (1) If the Board or its designee determines that the request for review is consistent with the criteria in OAR 255-80-010 and the limits of OAR 255-80-011, the Board may open the case for review.

- (2) The Board may open a case for reconsideration of a finding without receiving a request, without regard to time limits, and without opening all findings for review and appeals.
- (3) The Board may conduct the review using the following methods:
 - (a) Administrative file pass, with the number of concurring votes required by OAR 255-30-015; or
 - (b) Other administrative action by the Board or its designee, e.g., to correct errors in the history risk score, crime category, credit for time served, inoperative time or adjusted commitment dates; or
 - (c) Administrative hearing, in cases where review would cause an adverse result for the prisoner.
- (4) When the Board schedules an offender for an administrative review hearing and the offender has not received the Hearing Packet, the Board may proceed with the hearing, if the inmate waives the right to adequate notice of the hearing and receipt of the Board Review Packet.
- (5) The Board shall send the offender written notice of the Board decision and findings.

Stat. Auth.: ORS 144.335

Hist.: PAR 18-1988, f. & cf. 12-6-88; PAR 2-1991, f. & cert. ef. 2-20-91; PAR 8-1992, f. & cert. ef. 10-9-92

Administrative Review Hearing Packet

255-80-015 The Administrative Review Hearing Packet shall contain:

- (1) Institution face sheet;
- (2) Board Action Form granting administrative review;
- (3) All information attached to the Board Action Form granting review;

- (4) Administrative review request; - Exh O
- (5) All Board Action Forms since the prison term hearing;
- (6) Psychological evaluations (last six months);
- (7) Correspondence;
- (8) Field parole analysis report or comparable report;
- (9) Court orders; and
- (10) Inmates' Rights and Board of Parole and Post-Prison Supervision Procedures.

Stat. Auth.: ORS Ch. 144

Hist.: PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89

Exh O

DIVISION 90

PAROLE SUPERVISION AND
DISCHARGE FOR INMATES WITH
CRIMES PRIOR TO DECEMBER 4, 1986

Definitions

5-90-001 [2PB 5-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
Repealed by 2PB 18-1985,
f. & ef. 5-31-85]

Period of Parole Supervision; Effect of Restitution Obligation

255-90-002 [2PB 2-1980, f. & ef. 5-20-80;
2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 5-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 18-1985, f. & ef. 5-31-85;
PAR 6-1988, f. & ef. 5-19-88;
PAR 8-1988, f. & ef. 7-1-88;
PAR 17-1988, f. & ef. 10-18-88;
PAR 2-1990, f. & cert. ef. 4-5-90;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Exh I

Length of Supervised Parole; Findings

255-90-003 [2PB 2-1980, f. & ef. 5-20-80;
2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 5-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 18-1985, f. & ef. 5-31-85;
PAR 6-1988, f. & ef. 5-19-88;
PAR 8-1988, f. & ef. 7-1-88;
PAR 17-1988, f. & ef. 10-18-88;
PAR 4-1989, f. & ef. 11-1-89;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;

Exh. I

Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Effective Date of Discharge

255-90-005 [2PB 1-1979, f. & ef. 2-1-79;
2PB 2-1980, f. & ef. 5-20-80;
2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 5-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;

2PB 18-1985, f. & ef. 5-31-85;
PAR 18-1988, f. & ef. 12-6-88;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Closing Summary; Extension of Supervision; Approving or Denying Discharge

255-90-010 [2PB 1-1979, f. & ef. 2-1-79;
2PB 2-1980, f. & ef. 5-20-80;
2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 5-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 18-1985, f. & ef. 5-31-85;
PAR 6-1988, f. & ef. 5-19-88;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Discharge Limitation

255-90-015 [2PB 1-979, f. & ef. 2-1-79;
2PB 2-1980, f. & ef. 5-20-80;
2PB 1-1981, f. 1-20-81, ef. 2-15-81;
2PB 5-1981(Temp), f. & ef. 11-4-81;
2PB 1-1982, f. & ef. 5-19-82;
2PB 18-1985, f. & ef. 5-31-85;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

DIVISION 92

PAROLE SUPERVISION UNDER BM10

Application of Division 92

255-92-005 [PAR 10-1987, f. & ef. 12-16-87;
PAR 4-1989, f. & ef. 11-1-89;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Definitions

255-92-010 [PAR 10-1987, f. & ef. 12-16-87;
Repealed by PAR 6-1988,
f. & ef. 5-19-88]

Duration of Parole

255-92-015 [PAR 10-1987, f. & ef. 12-16-88; 87
PAR 4-1989, f. & ef. 11-1-89;
PAR 6-1991, f. & cert. ef. 10-15-91;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Period of Active Supervision; Exceptions

255-92-020 [PAR 10-1987, f. & ef. 12-16-87;
PAR 4-1989, f. & ef. 11-1-89;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Parole Summary; Active Supervision Review

255-92-025 [PAR 10-1987, f. & ef. 12-16-87;
PAR 4-1989, f. & ef. 11-1-89;
PAR 3-1991(Temp),
f. & cert. ef. 5-1-91;
PAR 5-1991, f. & cert. ef. 10-15-91;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;

Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Continued Active Supervision; Procedure

255-92-030 [PAR 10-1987, f. & ef. 12-16-87;
PAR 6-1988, f. & ef. 5-19-88;
PAR 8-1988, f. & ef. 7-1-88; Exh L.

PAR 3-1991(Temp),
f. & cert. ef. 5-1-91;
PAR 1-1992, f. & cert. ef. 1-13-92;
PAR 5-1991, f. & cert. ef. 10-15-91;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Exh L

Removal from Active Supervision; Procedure

255-92-035 [PAR 10-1987, f. & ef. 12-16-87;
PAR 1-1991, f. & cert. ef. 1-16-91;
PAR 3-1991(Temp),
f. & cert. ef. 5-1-91;
PAR 5-1991, f. & cert. ef. 10-15-91;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

Exh L

Bases for Reinstating Active Supervision; Procedure

255-92-040 [PAR 10-1987, f. & ef. 12-16-87;
PAR 6-1988, f. & ef. 5-19-88;
PAR 8-1988, f. & ef. 7-1-88;
PAR 1-1989(Temp),
f. & ef. 4-19-89;
PAR 4-1989, f. & ef. 11-1-89;
PAR 1-1991, f. & cert. ef. 1-16-91;
PAR 3-1991(Temp),
f. & cert. ef. 5-1-91;
PAR 5-1991, f. & cert. ef. 10-15-91;
PAR 8-1992, f. & cert. ef. 10-9-92;
Suspended by PAR 2-1993(Temp),
f. & cert. ef. 8-18-93;
Repealed by PAR 3-1993,
f. & cert. ef. 10-15-93]

DIVISION 93

SUPERVISED AND UNSUPERVISED PAROLE AND POST-PRISON SUPERVISION

Period of Supervised Parole or Post-Prison Supervision

255-93-000 (1) The minimum periods of supervised parole and post-prison supervision shall be:

- (a) Six months for crime categories 1, 2 and 3;
- (b) Twelve months for crime categories 4, 5 and 6;
- (c) Eighteen months for crime categories 7, 8, 9, 10 and 11.

(2) The following minimum periods of supervised parole and post-prison supervision are an exception of section (1) of this rule:

- (a) Three years for offenders sentenced as dangerous offenders under ORS 161.725 to 161.737;
- (b) Three years for offenders sentenced for murder under ORS 163.115;
- (c) Three years for offenders sentenced for aggravated murder under ORS 163.105; and
- (d) Offenders sentenced for sex offenses listed in ORS 144.103 shall serve supervised parole or post-prison supervision until the expiration of the sentence.

(3) Upon revocation of supervision and rerelease back to the community or renewal of supervised parole status, the period of supervision shall be as provided in sections (1) and (2) of this rule or to the expiration of the sentence, whichever is shorter.

Stat. Auth.: ORS 144.050, 144.140 & 144.310

Hist.: PAR 2-1993(Temp), f. & cert. ef. 8-18-93; PAR 3-1993, f. & cert. ef. 10-15-93

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

Closing Summary

255-93-010 (1) No sooner than 30 days prior to the expiration of the offender's minimum supervised parole or post-prison supervision period, the supervising officer may send to the Board a closing summary for offenders who have substantially fulfilled the supervision conditions. This summary shall include:

- (a) An evaluation of the offender's compliance with supervision conditions;
- (b) The status of the offender's court ordered monetary obligations, including fines and restitution, if any;
- (c) The offender's employment status;
- (d) The offender's address;
- (e) Treatment program outcome;
- (f) Any new criminal activity;
- (g) A recommendation that the Board place the offender on unsupervised parole or post-prison supervision.

(2) After reviewing the closing summary, if the Board or its designated representative finds the offender has substantially fulfilled the supervision conditions, the Board may order that the offender serve the remainder of the sentence on unsupervised parole or post-prison supervision. If the crime was committed prior to December 4, 1986, the Board may discharge the sentence. The Board shall send the offender notice of the change in status.

(3) If the Board finds the offender has not substantially fulfilled the supervision conditions the Board may order continued supervised parole or post-prison supervision. The Board shall notify the offender and the supervising officer that supervision continues.

(4) If the supervising officer decides not to send a closing summary, supervised parole or post-prison supervision shall continue until the expiration of the sentence or until the offender has substantially fulfilled the supervision conditions and the supervising officer and Board complete the procedures of sections (1) and (2) of this rule.

Stat. Auth.: ORS 144.050, 144.140 & 144.310

Hist.: PAR 2-1993(Temp), f. & cert. ef. 8-18-93; PAR 3-1993, f. & cert. ef. 10-15-93

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

Renewal of Supervised Parole or Post-Prison Supervision

255-93-020 (1) The Board may renew supervised parole when the Board receives notice of a new law violation; or

(2) When the Board receives other information indicating that renewal of supervised parole or post-prison supervision may be warranted, the Board may cite the offender to a show cause hearing to determine whether or not supervision should be renewed.

(3) After the show cause hearing, the Board shall notify the offender of its decision. If the Board decides to renew supervised parole or post-prison supervision, the Board shall notify the offender of the length of the renewed period of supervision and the reasons for renewal.

(4) The length of a renewed supervision period shall be that as provided in OAR 255-93-000.

Stat. Auth.: ORS 144.050, 144.140 & 144.310

Hist.: PAR 2-1993(Temp), f. & cert. ef. 8-18-93; PAR 3-1993, f. & cert. ef. 10-15-93

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

Sentence Expiration

255-93-030 (1) During the pendency of violation proceedings, the running of the supervision period and the sentence is stayed and the Board retains jurisdiction over the offender until the proceedings are resolved. The Board may grant credit toward the sentence for time the offender serves incarcerated pending the violation proceedings.

(2) These rules shall not preclude more than one extension or renewal of supervised parole or post-prison supervision, however an extension or renewal period may not exceed the maximum court ordered sentence.

(3) After expiration of the sentence of an offender on parole or post-prison supervision, the Board shall send written notice of the expiration to the offender and the supervisory authority.

Stat. Auth.: ORS 144.050, 144.140 & 144.310

Hist.: PAR 2-1993(Temp), f. & cert. ef. 8-18-93; PAR 3-1993, f. & cert. ef. 10-15-93

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

DIVISION 95

PRESENTENCE INVESTIGATION

Uniform Presentence Report

255-95-005 (1) The Board, in consultation with the Advisory Commission on Prison Terms and Parole Standards, shall propose to the Department of Corrections a uniform presentence report form.

(2) The proposed presentence reports shall be prepared according to the format outlined in **Exhibit M**.

Stat. Auth: ORS Ch. 144

Hist.: 2PB 1-1979, f. & ef. 2-1-79; 2PB 1-1982, f. & ef. 5-19-82; 2PB 16-1985, f. & ef. 5-31-85; PAR 6-1988, f. & cert. ef. 5-19-88

EXHIBIT 1 — PART 1
(OAR 255-05-005, 255-30-024, 255-35-013)

CRIME SEVERITY RATINGS

<u>FELONY</u> <u>ORS</u>	<u>crime</u>	<u>class</u>	<u>ratings</u>	<u>Person</u>	
163.535	Abandonment of Child	C	2	Yes	
166.085	Abuse of Corpse	C	3		Yes
475.993	Act by Registrant		C	1	No
163.095	Aggravated Murder		U		Yes
	Conspiracy to Commit Aggravated Murder		A	6	Yes
164.057	Aggravated Theft I		B	4	No
164.325	Arson I		A	6,5	Yes
164.315	Arson II		C	2	Yes
163.185	Assault I		A	6,5	Yes
163.175	Assault II		B	4	Yes
163.165	Assault III		C	3,2	Yes
161.405	Attempt – Received the crime severity rating one rating below the rating for the lowest subcategory of the completed crime, for example, Attempted Arson I would be a 4 if the completed crime could have been classified in subcategory I of Arson I as a 6. An attempt remains a rating of 1 if 1 is the lowest rating for the completed crime.				
163.515	Bigamy		C	1	Yes
162.015	Bribe Giving		B	3	No
162.025	Bribe Receiving		B	3	No
162.275	Bribing Receiving by a Witness		C	2	No
162.265	Bribing a Witness		C	2	No
164.225	Burglary I		A	5,4,3	Yes
164.215	Burglary II		C	3,2,1	No
164.220	Carrying Weapon with Intent to Use		C	2	Yes
163.275	Coercion		C	4,3	Yes
167.017	Compelling Prostitution		B	4	Yes
164.377(2)(3)	Computer Crime/Proprietary Info		C	2,1	No
161.450	Conspiracy – Classified at same rating as conspired crime (except murder or treason).				
803.080	Counterfeit Vehicle Title		C	1	No
475.992(3)	Creation or Delivery of Counterfeit Substance		A,B,C	5,4,3,1	No
163.005	Criminal Homicide		A	2	Yes
164.365	Criminal Mischief I		C	1	No
163.205	Criminal Mistreatment I		C	2	Yes
163.555	Criminal Nonsupport		C	1	No
165.022	Criminal Possession Forged Instrument I		C	1	No
165.032	Criminal Possession Forgery Device		C	1	No
164.140	Criminal Possession Rented/Leased Property		C	2,1	No
163.145	Criminally Negligent Homicide		C	4,3	Yes
163.257	Custodial Interference I		B	3	Yes
163.245	Custodial Interference II		C	1	Yes
163.673	Dealing in Depictions of Child's Sexual Conduct		B	4	Yes
475.995(1)	Delivery of Controlled Substance to Minor		A	4	Yes
475.995(2)	Delivery of Controlled Substance to Minor		B	3	Yes
475.995(5)	Delivery of Marijuana to Minor		A	4	Yes
475.999	Delivery of Controlled Substance to Student or Minor				
within 1,000 feet of School			A	4	Yes
475.992(2)	Delivery of Marijuana for Payment		B	4,3,1	No
167.365	Dogfighting		C	1	No
811.175	Driving While Suspended or Revoked		C	1	No
260.402; 260.555; 260.575; 260.615; 260.645; 260.665(2); 260.655(3); 260.665(2)(d)-(f);					
260.715	Election Law Offenses		C	1	No
164.885	Endangering Aircraft		C	2	Yes
162.165	Escape I		B	5	Yes
162.155	Escape II		C	2,1	No
162.205	Failure to Appear I		C	2	No
811.705	Failure to Perform Duties of Driver		C	3,2	Yes
822.605	False Swearing Relating to Regulation				
Vehicle Related Business			C	1	No
166.270	Felon in Possession of Firearm		C	2	Yes
532.140; 532.610	Forest Products				

532.620; 532.990(2)	Offenses	U	1	No
803.230	Forge/Alter Vehicle Title Regis	C	1	No
165.013	Forgery I	C	3,2,1	No
59.055; 59.115; 59.127; 59.135; 59.145; 59.165 59.730; 59.740; 59.750 59.760; 59.770; 59.780; 59.790; 59.800;	Fraud Involving Securities	B	4,3	No
165.055(3b)	Fraudulent Use of Credit Card	C	1	No
811.185	Habitual Traffic Offender (OMVVCO)	C	1	No
166.420	Handgun/Failure to Keep Register	C	2	Yes
162.325	Hindering Prosecution	C	1	No
163.525	Incest	C	3	Yes
166.165	Intimidation I	C	2	Yes
163.235	Kidnapping I	A	6	Yes
163.225	Kidnapping II	B	4	Yes
163.118	Manslaughter I	A	6	Yes
163.125	Manslaughter II	B	5,4,3	Yes
166.410 or Possession of Firearms	Manufacture, Importation, Sale, Gift Loan	B	4	Yes
471.440	Manufacture of Mash; Operating	C	1	No
Distillery Without a License	Distillery Without a License	C	1	No
475.992(1)	Manufacture or Delivery of Controlled	A,B,C	5,4,3,1	
475.993(2a)	Substance	C	3	Yes
166.384	Manufacture of Destructive Device	U	7,8	Yes
163.115	Murder	A	6	Yes
Conspiracy to Commit Murder	Negotiating a Bad Check	C	2,1	No
165.065(3b)	Obliteration of ID Marks (Firearm)	C	1	Yes
166.450	Odometer Tampering	C	1	No
815.410	or False Report	C	1	Yes
815.430	Paramilitary Activity	C	1	No
166.660	Paying for Viewing Child's Sexual Conduct	C	2	No
163.680	Perjury	C	2	No
162.065	Poaching	C	2	No
496.992	Possession of a Controlled Substance	B,C	3,2,1	No
475.992(4)	Possession of Destruction Device	C	3	Yes
166.382	Possession of a Fraudulent	C	2,1	No
165.070	Communication Device	C	1	No
167.137	Possession of Gambling Records	B	3	Yes
166.272	Possession of Machine Gun, Short-Barreled	C	1	No
Rifle or Shotgun or Silencer	Possession of a Stolen Vehicle	C	5	Yes
819.300	Possession of Weapon By Inmate of	A	1	No
166.275	Penal Institution	C	2	Yes
167.127	Promoting Gambling I	A	5,4	
167.012	Promoting Prostitution	B	6,5	Yes
166.720	Racketeering	C	4,3	Yes
163.375	Rape I	C	2	Yes
163.365	Rape II	C	2	Yes
163.355	Rape III	C	2	Yes
166.015	Riot	A	6,5	Yes
164.415	Robbery I	B	4	Yes
164.405	Robbery II	C	2	Yes
164.395	Robbery III	C	1	Yes
167.062(4)	Sadomasochistic Abuse or Sexual	C	1	Yes
Conduct in Live Show	Sexual Abuse I	A	6,5	Yes
163.425	Sexual Penetration Foreign Obj. I	B	4	Yes
163.411	Sexual Penetration Foreign Obj. II	C	4	Yes
163.408	Shipping, Transporting, Receiving, Selling	B	4	Yes
166.429	Furnishing Firearm in Furtherance of a Felony	B	4	Yes
163.405	Sodomy I	A	6,5	Yes
163.395	Sodomy II	B	4	Yes
163.385	Sodomy III	C	2	Yes
161.435	Solicitation - Classified the same as attempt.	C	2	No
165.090	Sports Bribe Receiving	C	2	No
165.085	Sports Bribery	C	2	No

162.185	Supplying Contraband	C	4,3,2,1	Yes
167.212	Tampering with Drug Records	C	1	No
162.285	Tampering with a Witness	C	2	Yes
164.085	Theft by Deception	C	2,1	No
164.075	Theft by Extortion	B	4,3	Yes
164.095	Theft by Receiving	C	2	No
164.055	Theft I	C	2,1	No
164.125(4)(c)	Theft of Services	C	2,1	No
164.125(4)(d)	Theft of Services \$10,000+	B	4	No
164.065	Theft, Lost/Mislaid Property	C	1	No
819.310	Trafficking in Stolen Vehicles	C	3	No
163.677	Transporting Child Pornography	B	4	Yes
166.005	Treason	U	7	
Conspiracy to Commit Treason	A	6		
164.872(2)	Tree Spiking, Inconvenience,			
Annoyance or Alarm	C	2	Yes	
164.872(3)	Tree Spiking, Serious Injury	B	4	Yes
164.135	Unauthorized Use of Vehicle	C	2,1	No
163.670	Using a Child in a Display of Sexually			
Explicit Conduct	A	6,5	Yes	
247.121(2); 247.125	Voter Registration			
247.340(4); 247.420(2)	Offenses	C	1	No
411.630; 411.640				
411.675; 411.690	Welfare/			
411.840	Food Stamp Fraud	C	2,1	No
127.585	Withdrawal of Life-Sustaining Procedures			
by Altering or Forging a Power of				
Attorney or by Concealing or Destroying				
a Revocation	A	3	No	

EXHIBIT 1 – PART 2
(OAR 255-05-005, 255-30-024, 255-35-006, 255-35-013)

Arson I Unchanged since 1985
164.325

SUBCATEGORY 1 – RATING 6:

Knew or should have known premises were occupied at time of act or injury.

SUBCATEGORY 2 – RATING 5:

All other cases of Arson I.

Assault I Unchanged since 1985
163.185

SUBCATEGORY 1 – RATING 6:

Cases of Assault I in which there is intentional cause of serious physical injury to another by means of a deadly or dangerous weapon.

SUBCATEGORY 2 – RATING 5:

Cases of Assault I in which the victim(s) provoke the crime to a substantial degree or other evidence that misconduct by the victim(s) contributed substantially to the criminal episode.

Assault III Effective 4/1/88
163.165

SUBCATEGORY 1 – RATING 3:

Assault III/Vehicular where defendant has at least two prior DUI convictions within a five year period.

SUBCATEGORY 2 – RATING 2:

All other cases of Assault III.

Burglary I Effective 7/20/88
164.225

SUBCATEGORY 1 – RATING 5:

Entry into a dwelling, where defendant causes or attempts to cause physical injury to any person; is armed with a deadly weapon; uses or threatens to use a dangerous weapon; or death occurs.

SUBCATEGORY 2 – RATING 4:

Entry into a dwelling in which goods taken had a value of \$5,000 or more.

SUBCATEGORY 3 – RATING 3:

Entry into a dwelling in which goods taken had a value of less than \$5,000.

Burglary II Unchanged since 1985
164.215

SUBCATEGORY 1 – RATING 3:

Theft or destruction of over \$5,000 in property.

SUBCATEGORY 2 – RATING 2:

Theft or destruction of between \$1,000 to \$5,000.

SUBCATEGORY 3 – RATING 1:

Theft of less than \$1,000.

Coercion Unchanged since 1985
163.275

SUBCATEGORY 1 – RATING 4:

Compelling another to act through threat of serious physical harm or property damage; blackmail.

SUBCATEGORY 2 – RATING 3:

All others.
Computer Crime
164.377(2)(3)

Added 7/1/88; Theft I amended 8/5/88

Breakdown is the same as for Theft I.

Criminal Possession Rented/Leased Property
164.140

Theft I amended 8/5/88

Breakdown is the same as for Theft I.

Criminally Negligent Homicide
163.145

Effective 4/4/88

SUBCATEGORY 1 – RATING 4:

Vehicular Homicide where defendant with criminal negligence causes the death of another person.

SUBCATEGORY 2 – RATING 3:

Cases where the victim's misconduct contributed to the criminal episode.

Delivery of Controlled Substance
475.992(1); 475.995; 475.993(2)(a)

Effective 7/14/88

SUBCATEGORY 1 – RATING 5:

Operating or participating in the operation of a location in which crack cocaine or heroin is sold. ORS 475.993(2)(a) The delivery of heroin as part of a distribution or sales network. See Exhibit A-III. ORS 475.992(1)(a)-(b)

SUBCATEGORY 2 – RATING 4:

Delivery of an illegal drug (including, but not limited to methamphetamines) (Schedule I, II or III) other than marijuana where there is evidence that the delivery is part of a drug selling or distribution network or scheme. See Exhibit 1-Part 3. ORS 475.992(1)(a)-(c)

Knowingly owning or providing a location for the sale or distribution of illegal drugs other than marijuana. ORS 475.993(2)(a) (Schedule D)

Delivery of any quantity of illegal drug in and on, or within one thousand feet of, the real property comprising a public or private elementary and/or middle school. ORS 475.992(1)(a)-(c); 475.992(2); 475.99 (Schedule I, II or III)

Delivery or assisting in the delivery of illegal drugs in which a minor is involved. ORS 475.995(1) & (5) (includes marijuana, but

not Schedule III.)

SUBCATEGORY 3 – RATING 3:

Delivery or assisting in the delivery of illegal drugs for compensation or profit in circumstances other than those listed above. ORS 475.992(1)-(c); 475.992(2)(a); 475.995 (Schedule I, II or III)

SUBCATEGORY 4 – RATING 1:

Delivery of a small amount of any illegal drug not for profit or compensation. All other cases of delivery of illegal drugs not noted above.

**Escape II
162.155**

Effective 12/6/88

SUBCATEGORY 1 – RATING 2:

Use or threat to use physical force escaping from custody; or, having been convicted or found guilty of a felony, escapes from custody imposed as a result thereof; or escapes from a correctional facility or, while otherwise under the jurisdiction of the Psychiatric Security Review Board, departs from state without authorization of Board.

SUBCATEGORY 2 – RATING 1:

Escapes while on a pass, terminal leave or work release from a county correctional facility; all other cases.

**Failure to Perform Duties of a Driver
Where There is Injury or Death
811.705**

Effective 7/1/88

SUBCATEGORY 1 – RATING 3:

If death results.

SUBCATEGORY 2 – RATING 2:

Injury and all other cases.

**Forgery I
165.013**

Effective 7/1/88

SUBCATEGORY 1 – RATING 3:

Loss, potential loss, or receiving of over \$5,000.

SUBCATEGORY 2 – RATING 2:

Loss, potential loss, or receiving of \$1,000 to \$5,000.

SUBCATEGORY 3 – RATING 1:

Loss, potential loss, or receiving of under \$1,000.

**Fraud Involving Securities
59.055; 59.115; 59.127; 59.135; 59.145; 59.165;
59.730; 59.740; 59.750; 59.760; 59.770; 59.780; 59.790; 59.800;**

Effective 7/20/88

SUBCATEGORY 1 – RATING 4:

Loss, potential loss, or receiving of \$10,000 or more.

SUBCATEGORY 2 – RATING 3:

All other cases of fraud involving securities.

Manslaughter II
163.125

Effective 4/4/88

SUBCATEGORY 1 – RATING 5:

Cases where death of a victim, usually a child, results from prolonged abuse; failure to provide for victim's welfare resulting in death; medical treatment withheld to conceal physical signs of abuse.

SUBCATEGORY 2 – RATING 4:

Causes another to commit suicide or aids, cases where death of victim involves use of a weapon or follows an assault; cases where death is by negligent use of vehicle and defendant has at least two prior DUI convictions within five years.

SUBCATEGORY 3 – RATING 3:

Cases where death is by negligent use of a vehicle; all other cases.

Manufacture of Controlled Substance
475.992(1); 475.993(2)(a)

Effective 7/14/88

SUBCATEGORY 1 – RATING 5:

Operating or assisting in the operation of a laboratory for the production of methamphetamines. Cultivating or assisting in the manufacture of marijuana for distribution or sale as part of a distribution network or scheme. See Exhibit 1-Part 3. Cultivation or assisting in the cultivation of more than 100 marijuana plants.

SUBCATEGORY 2 – RATING 4:

Manufacturing or assisting in the manufacture of illegal drugs other than methamphetamines or marijuana, when there is evidence that the manufacture is part of a drug selling or distribution network or scheme. See Exhibit 1-Part 3. (Schedule I, II or III) Knowingly owning or providing a location for the manufacture of illegal drugs other than marijuana for sale or distribution. ORS 475.993(2)(a) (Schedule I)

SUBCATEGORY 3 – RATING 3:

Manufacture or assisting in the manufacture of illegal drugs for distribution. Manufacture of marijuana in the amount of 25 or more plants and/or in circumstances other than those listed in Subcategory 1. See Exhibit 1-Part 3. (Schedule I, II or III)

SUBCATEGORY 4 – RATING 1:

Manufacture of illegal drugs for the offender's own use. All other cases of manufacturing of illegal drugs. (Schedule I, II or III)

Murder Unchanged since 1985
163.115

SUBCATEGORY 1 – Rating 8:

Stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation.

SUBCATEGORY 2 – RATING 7:

All other cases of murder.

Negotiating a Bad Check 7/1/88; Theft I amended 8/5/88
165.065(3b)

Breakdown is the same as for Theft I.

Possession of Controlled Substance
475.992(4)

7/14/88; Amended 11/1/89

SUBCATEGORY 1 – RATING 3:

Possession of illegal drugs other than marijuana with intent to deliver. (Schedule I, II or III) See Exhibit 1-Part 3. Possession of illegal drugs which constitute the precursors or byproducts of the manufacturing process (as defined by ORS 475.940).

SUBCATEGORY 2 – RATING 2:

Possession of illegal drugs other than cocaine/crack, methamphetamines, and heroin (which are included in Subcategory 1) with intent to deliver. (Schedule I or III)

SUBCATEGORY 3 – RATING 1:

Possession of illegal drugs in circumstances other than those listed above (e.g., for personal use). (Schedule I, II or III)

Possession of a Fraudulent Communications Device
165.070

Theft I amended 8/5/88

Breakdown is the same as for Theft I.

Racketeering Unchanged since 1985
166.720

SUBCATEGORY 1 – RATING 5:

The principle party involved in violation of the Racketeering statute. Involvement is that of planning, directing or participating in the scheme or schemes resulting in direct profit or gain.

SUBCATEGORY 2 – RATING 4:

The subordinate party involved in violation of the Racketeering statute. Involvement is limited to acting as an agent or employee of the principle. There is no involvement in planning, directing or participating in the scheme or schemes in violation of this statute.

Rape I Amended 11/1/89
163.375

SUBCATEGORY 1 – RATING 6:

Stranger to stranger; breaking and entering; threat to use or use of weapon; actual or threat of serious bodily or emotional harm; intercourse with female or male under 12. Cases in which the female is incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

SUBCATEGORY 2 – RATING 5:

All other cases.

Rape II Amended 11/1/89
163.365

SUBCATEGORY 1 – RATING 4:

Cases in which the female is under 14 years of age.

SUBCATEGORY 2 – RATING 3:

All other cases.

Robbery I Effective 7/20/88
164.415

SUBCATEGORY 1 – RATING 6:

Cases of robbery in which the defendant is armed with a deadly or dangerous weapon; discharges a firearm; uses a dangerous weapon; makes explicit or immediate threats by word or gesture; causes death of or physical injury to the victim.

SUBCATEGORY 2 – RATING OF 5:

All other cases of Robbery I.

Sexual Penetration with Foreign Object I
163.411

Amended 11/1/89

SUBCATEGORY 1 – RATING 6:

Sexual Penetration with Foreign Object I is broken down in the same manner as Rape I.

SUBCATEGORY 2 – RATING 5:

All other cases.

Sodomy I Amended 11/1/89
163.405

SUBCATEGORY 1 – RATING 6:

Sodomy I is broken down in the same manner as Rape I.

SUBCATEGORY 2 – RATING 5:

All other cases.

Supplying Contraband Effective 12/6/88
162.185

SUBCATEGORY 1 – RATING 4:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any firearm; knowingly introduces any firearm into a correctional facility, juvenile facility, or state hospital.

SUBCATEGORY 2 – RATING 3:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses dangerous weapon; knowingly introduces any dangerous weapon into a correctional facility, juvenile facility or state hospital.

SUBCATEGORY 3 – RATING 2:

While confined in a correctional facility, juvenile facility or state hospital makes, obtains or possesses any Schedule I, II, or III controlled substance except marijuana; knowingly introduces any Schedule I, II or III controlled substance into a correctional facility, juvenile facility or state hospital.

SUBCATEGORY 4 – RATING 1:

All other cases.

Theft by Deception Theft I amended 8/5/88
164.085

Breakdown is the same as for Theft I.

Theft by Extortion Unchanged since 1985
164.075

SUBCATEGORY 1 – RATING 4:

Threat of serious bodily harm or death.

SUBCATEGORY 2 – RATING 3:

All others.

Theft I Amended 4/4/88 & 8/5/88; Effective 8/5/88
164.005

SUBCATEGORY 1 – RATING 2:

Theft or receiving of \$1,000 or more.
Theft of a motor vehicle for personal transportation.
Theft of a livestock animal.
Theft of a firearm or explosive.
Theft during riot or catastrophe.

SUBCATEGORY 2 – RATING 1:

Thefts under \$1,000.

Theft of Services
164.125(4)(e)

Theft I amended 8/5/88

Breakdown is the same as for Theft I.

Unauthorized Use of Vehicle
164.135

Unchanged since 1985

SUBCATEGORY 1 – RATING 2:

Loss, destruction or severe damage to vehicle or property; or injury to others.

SUBCATEGORY 2 – RATING 1:

All others.

**Unlawful Creation or Delivery
of Counterfeit Substance**
475.992(3)

Effective 7/14/88

Breakdown is the same as for Manufacture or Delivery of Controlled Substance.

**Using a Child in a Display of
Sexually Explicit Conduct**
163.670

Effective 4/4/88

SUBCATEGORY 1 – RATING 6:

Child 12 years of age or under.

SUBCATEGORY 2 – RATING 5:

All other cases.

Welfare/Food Stamp Fraud
411.630; 411.640; 411.675;
411.690; 411.840

Added 4/4/88; Theft I amended 8/5/88

Breakdown is the same as for Theft I.

EXHIBIT 1 – PART 3
(OAR 255-05-005, 255-30-024, 255-35-006, 255-35-013)

Effective 7/14/88

NOTE: For purposes of Exhibit 1 “illegal drugs” means Schedule I, II, and III substances.

Evidence of a Drug Selling or Distribution Scheme or Network includes, but is not limited to the following:

- A. The presence of substantial amounts of cash on the premises;
- B. Heavy traffic on the premises;
- C. The presence of weapons on the premises;
- D. The presence of packaging materials such as scales, wrapping or foil;
- E. The presence of drug transaction records or customer lists;
- F. The presence of quantities of stolen property;
- G. Modification of structures by painting, wiring, plumbing, or lighting to facilitate the offense;
- H. Possession of large amounts of illegal drugs creates a presumption of intent to sell or deliver;
- I. Possession of real or personal property of substantial value, directly or by proxy, without plausible means of lawful income;
- J. A showing that the offender has engaged in repeated similar criminal acts;
- K. The presence of manufacturing paraphernalia, including recipes, precursor chemicals, or laboratory equipment on the premises;
- L. Use of public lands for the manufacture of drugs;
- M. Deployment of security devices with the potential of injuring intruders, including spring guns or explosive devices; or
- N. The presence of substantial quantities of controlled substances on the premises.

EXHIBIT 2 — PART 1
(OAR 255-05-005, 255-35-006, 255-35-013, 255-35-021)

CRIMINAL HISTORY/RISK ASSESSMENT

(A) No prior felony convictions as an adult or juvenile	3	
One prior felony conviction	2	
Two or three prior felony convictions	1	
Four or more prior felony convictions	0	_____
(B) No prior felony or misdemeanor incarcerations, (i.e., executed sentences or 90 days or more), as an adult or juvenile	2	
One or two prior incarcerations	1	
Three or more prior incarcerations	0	_____
(C) Verified period of three years felony conviction free in the community prior to the present commitment	1	
Otherwise 0	0	_____
(D) Age at commencement of behavior leading to this incarceration	DOB:	_____
26 or older and at least one point received in Items A, B, or C	2	
26 or older and no points received in Items A, B, or C	1	
21 to under 26 and at least one point received in Items A, B, or C	1	
21 to under 26 and no points received in Items A, B, or C	0	
Under 21 0	0	_____
(E) Present commitment does not include parole, felony probation, failure to appear, release agreement, escape or custody violation	2	
Present commitment involves felony probation, release, agreement or failure to appear violation	1	
Present commitment involves parole, escape or custody violation	0	_____
(F) Has no admitted or documented substance abuse problem within a three year period in the community immediately preceding the commission of the crime of conviction	1	
Otherwise 0	0	_____

TOTAL HISTORY/RISK ASSESSMENT SCORE: _____

TOTAL RANGE: _____

ADJUSTED COMMITMENT DATE: _____

CRIME SEVERITY: _____

INSTITUTION NUMBER: _____

NAME: _____

SID: _____

EXHIBIT 2 – PART 2
(OAR 255-05-005, 255-35-006, 255-35-013, 255-35-021)

Coding Instructions: History/Risk Score

The instructions address the application of the history/risk scoring instrument in most circumstances. Invariably, situations will arise where judgment will have to be exercised. As a general rule, never delete a point when doubt exists, note such doubtful items.

(A) No prior felony convictions as an adult or juvenile:	3
One prior felony conviction:	2
Two or three prior felony convictions:	1
Four or more prior felony convictions:	0

In general, the purpose of this item is to consider previous verified instances of criminal conduct.

1. **Adult Convictions.** Count as a prior conviction all adult convictions for criminal acts classed as felonies. Count convictions in another jurisdiction for criminal behavior that would be classed as a felony in Oregon.
2. **Juvenile Convictions.** Count adjudications transpiring prior to the 16th birthday if incarceration results. Count adjudications for a juvenile who has passed his 16th birthday for offense behaviors that would have been felonies if committed by an adult. Formal probation and wardship are considered to constitute a conviction provided the foregoing criteria are met. Do not count any juvenile charge which results in informal probation.
3. **Effective Age.** Count as a conviction, a finding that a juvenile who has passed his 16th birthday, who while either on probation or parole for a crime classified as a felony, committed a new felony, even though the probation/parole was continued.
4. **Military Convictions.** Count prior convictions for behavior which would constitute a felony if committed in Oregon.
5. **Convictions Pardoned.** Count felony offenses which have been pardoned on grounds other than innocence. Do not count convictions or adjudications which were set aside or pardoned on the grounds of innocence. Do not count any convictions which a court has expunged. Do not count offenses which have resulted in a finding of guilty except for insanity.
6. **Convictions Reversed or Vacated on Constitutional Grounds.** Do not count felony convictions reversed or vacated on constitutional grounds (e.g., that an indigent defendant was deprived of his/her right to counsel). However, it is presumed that a conviction/adjudication is valid unless the evidence is clear that it is not. If a prisoner challenges such conviction, the prisoner should be advised to petition for a reversal of such conviction in the court in which the prisoner was originally tried, and then to provide the board with evidence of such reversal.
7. **Uncounseled Convictions.** Do not count felony convictions if the documents clearly show that the defendant neither had counsel nor waived counsel for a particular conviction. Count convictions where the offender chooses to represent himself.

If an offender challenges counting an offense on the basis that it was uncounseled, consider the circumstances prior to granting the relief. In weighing the evidence, recent convictions and serious convictions increase the burden on the offender to produce evidence to overcome the presumption that the crime was counseled. If the conviction record is not clear and several years have elapsed, the conviction would be more susceptible to challenge that it was uncounseled.

8. **Diversion.** Do not count convictions resulting in diversion from the judicial process without a specific finding of guilt (e.g., deferred prosecution, probation without plea).
9. **Convictions Now Classed as Misdemeanors.** Count as a conviction, offenses which were previously felonies but are now only misdemeanors if the offense occurred at a time when they were sanctioned or classified as a felony.
10. **Present Conviction.** Do not count the present offense or offenses as prior convictions; but see #12 below.
11. **Old Prior Record.** Do not count prior felony convictions or commitments under Item A or B, if the offender has maintained a felony conviction free record of ten years in the community immediately prior to the current offense behavior. Count the ten year period between the date of the last conviction countable under Item A or release from the last incarceration countable under Item B (whichever comes last) and the date of commencement of the current offense behavior. If the prisoner was on parole or probation in the community and did not commit any felonies, that is considered conviction free time in the community.

Notwithstanding the above, count any homicide or conviction categorized as a six even if it is over ten years old and the offender has been crime free. NOTE: This does not preclude consideration of earlier behavior (e.g., repetition of particularly serious or assaultive conduct) as an aggravating factor. Similarly, a substantial crime free period in the community, not amounting to ten years, may be considered as a mitigating factor.

12. **Intervening Probation.** When any new felony conviction occurs while on felony probation, and the new conviction is the basis for the current incarceration, the original conviction leading to the probation shall constitute a prior conviction.

When the current commitment is the result of a probation revocation for non-criminal behavior, the original conviction leading to the probation shall not constitute a prior conviction. However, all felony convictions incurred since the inception of the original probation shall constitute countable prior convictions. Notwithstanding #10 above, it does not matter that the probation also results in the current incarceration.

13. **Merged Convictions.** Count judicially merged convictions at the time of sentence as one conviction. However, the offense that was merged may be considered as aggravation.

14. **Documentation.** Document the foregoing through official criminal justice system instruments (e.g., court orders, presentence investigation, police and parole/probation officer reports, computerized criminal histories, and other criminal justice systems records). Admissions shall also constitute adequate documentation.

(B)	No prior felony or misdemeanor related incarcerations (i.e., executed sentences of 90 days or more) as an adult or juvenile	2
	One or two prior incarcerations:	1
	Three or more prior incarcerations:	0

(In general, this serves to weight the severity of the prior convictions counted under Item A and documents more serious criminal episodes which have occurred.)

1. **Incarcerations and Facilities that Count as Confinement.** Count as an incarceration all sentences of 90 days or more which were executed following conviction for a felony or misdemeanor offense prior to the present commitment. An offender need not serve 90 days or more for a sentence to be executed; and offender need only serve a portion thereof, the deciding criteria is whether the confinement actually was begun.

Count as incarceration confinement to a facility if the movement of the person is restricted through social passes and furloughs; the facility need not be of a highly secure nature.

2. **Unbroken Incarceration.** If a court orders an additional prison sentence for behavior occurring prior to the present incarceration, do not count the original commitment as a prior incarceration. An incarceration is considered unbroken if there is no new criminal activity while in custody or there is no voluntary absence from custody.

3. **Current Commitment Counted.** Count the current felony incarceration as a prior incarceration if a felony conviction is received for a new crime while incarcerated and new history/risk score is being calculated for the new conviction.

4. **Incarcerated While Awaiting Trial.** Do not count as an incarceration, confinement awaiting trial unless the court ordered a sentence to time served.

5. **Incarceration Avoided.** Count a prior felony related incarceration if a court orders a sentence of more than 90 days prior to the current offense but the offender avoids or delays service of the sentence (e.g., by absconding, escaping, bail pending appeal).

6. **Hospital Commitments.** Do not count commitments of 90 days or more which are only for psychological, psychiatric, or medical observation.

7. **Technical Parole Violation.** Do not count parole violation incarcerations if the revocation is based on a technical violation(s). Count prior parole violation incarcerations if the parole violation is based upon criminal activity.

8. **Old Record.** Do not count prior felony commitments over ten years old if the current commitment follows ten years conviction free in the community (see #11 under Item A).

(C)	Verified period of three years felony conviction free in the community prior to present commitment:	1
	Otherwise	0

1. Score 1 if the offender has no prior felony convictions; or if the offender was released to the community from offender's last prior commitment and is felony conviction free for at least three years prior to the date of arrest for the offender's current offense or the offender is felony conviction free for at least three years prior to the present commitment, if the present commitment involves a felony probation revocation.
 2. Score 0 if there is a felony conviction within the three years prior to the present commitment or if the offender was confined or on escape status at the time of the current commitment.
 3. Convictions counted. For this purpose, count as a conviction only such offenses which would count as a felony conviction under Oregon law under Item A.
-

(D)	Age at commencement of behavior leading to this incarceration:	DOB: _____	
	26 or older and at least one point received in Items A, B, or C:		2
	26 or older and no points received in Items A, B, or C:		1
	21 to under 26 and at least one point received in Items A, B, or C:		1
	21 to under 26 and no points received in Items A, B, or C:		0
	Under 21:		0

1. Score 2 if the offender was 26 years of age at the commencement of the current offense and at least one point was received under Items A, B, or C.
 2. Score 1 if the offender was 26 years of age at the commencement of the current offense and no points were received under Items A, B, or C.
 3. Score 1 if the offender was 21 to under 26 and at least one point was received under Items A, B, or C.
 4. Score 0 if the offender was 21 to under 26 and no points were received under Items A, B, or C.
 5. Score 0 if the offender was under 21 at the commencement of the current offense.
 6. Age. Use the offender's age at the time the crime was committed unless the offender was initially placed on probation, in which case the offender's age at the time of the behavior leading to revocation should be used.
-

(E)	Present commitment does not include parole, felony probation, failure to appear, release agreement, escape, or custody violation:	2
	Present commitment involves felony probation, release agreement or failure to appear violation:	1
	Present commitment involved parole, escape or custody violation:	0

1. **Probation Violation.** Count as a probation violation if the offender was on felony probation when the misconduct occurred. It does not matter whether the court continued or terminated the probation. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the person was on probation.
2. **Release Agreement Violation.** Count as a release agreement violation if an offender committed the present offense while on release, bail or other custody reduction from any legal jurisdiction. If an offender, pursuant to being arrested for the present crime, is granted bail or release on own recognizance and subsequently fails to appear at the time and place specified by a court, consider it a violation.
3. **Failure to Appear.** Count as a failure to appear violation any sentence to the Department of Corrections or Failure to Appear. When a court orders probation for Failure to Appear, and the Failure to Appear transpired following arrest for the present crime, count it as a Failure to Appear Violation.

4. **Parole Violation.** Count misconduct occurring while on parole. It does not matter whether the parole was continued or revoked nor does it matter in what jurisdiction the parole was ordered. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the offender was on parole.
5. **Escape.** Count as an escape if the offender is serving a sentence for Escape. Count as an escape if the offender escapes from custody following an arrest, conviction or sentencing. Count escape as a trust violation even if it was not adjudicated. Escape means the unlawful or unauthorized departure of a person from custody or a correctional facility. Escape includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board. Escape does not include failure to comply with provisions of a conditional release in ORS 135.245.
6. **Custody Violation.** Count as a custody violation if the present crime or crimes were committed while in custody (e.g., county jail, prison, work release center, probation center, forest camp, terminal leave, temporary leave, social pass).

(F) Has no admitted or documented substance abuse problem within a three year period in the community immediately preceding the commission of the crime of conviction. 1

Otherwise: 0

1. **Documentation.** Substance abuse may be documented by admission, diagnosis of competent medical or counseling professional, participation in treatment program, or preponderance of such evidence as possession, urinalysis, and needle tracks.

Substance Abuse: Use of Schedule 1, 2, and 3 drugs and alcohol in quantities and under circumstances that lead to impairment of functioning, or health, or that specifically results in harm to other people and/or loss of property.

EXHIBIT 3
(OAR 255-05-005, 255-35-006, 255-35-021)

TIME TO BE SERVED

(All Ranges in Categories 1 – 8 Shown in Months)

SCORE	CRIME SEVERITY RATING	CRIMINAL HISTORY/RISK ASSESSMENT			
		11-09 Excellent	08-06 Good	05-03 Fair	02-00 Poor
		<u>Base Range</u>			
Category 1		06-06	06-06	06-10	12-18
Category 2		06-06	06-10	10-14	16-24
Category 3		06-10	10-14	14-20	22-32
Category 4		10-16	16-22	22-30	32-44
Category 5		16-24	24-36	40-52	56-72
Category 6		30-40	44-56	60-80	90-130
Category 7		96-120	120-156	156-192	192-240
Category 8		120-168	168-228	228-288	288-Life

EXHIBIT 4
(OAR 255-05-005, 255-35-006, 255-35-016, 255-35-021)

GUIDELINE MATRIX
STANDARD VARIATIONS FROM THE RANGES

CRIME CATEGORY	CRIMINAL HISTORY/RISK ASSESSMENT SCORE			
	11-9 Excellent	8-6 Good	5-3 Fair	2-0 Poor
	STANDARD VARIATIONS			
1. (Panel)	3*	3	3	3
2. (Panel)	3	3	3	4
3. (Panel)	3	3	3	6
4. (Panel)	3	3	4	6
5. (Panel)	4	6	6	8
6. (Panel)	24	24	24	24
7. (Board)	36	36	36	36
8. (Board)	36	36	36	36

*All numbers represent standard variations in months.

The maximum variations allowed in crime Categories 1 through 6 are:

- (a) For a panel: two standard variations.
- (b) For a panel with a concurring vote (three concurring votes): three times the standard variation.
- (c) For four concurring votes: four times the standard variation.
- (d) For five concurring votes after a hearing before the Board pursuant to OAR 255-30-015: five times the standard variation.

The maximum variations allowed for Category 7 and 8 crimes are:

- (a) For a majority of concurring votes: up to two times the standard variation of 36 months (72 months).
- (b) For a unanimous concurring vote: up to three times the standard variation of 36 months (108 months).

The Board may deny parole pursuant to OAR 255-35-030.

EXHIBIT 5 – PART 1
(OAR 255-05-005, 255-35-006, 255-35-013, 255-75-096)

AGGRAVATING FACTORS

- _____ A. Threat or violence toward witness or victim by producing or using any weapon; or representing by word or conduct threats of death or physical injury. (11/1/89)

- _____ B. Crime committed as a result of prejudice regarding the status of the victim (e.g., race, religion, gender, sexual orientation). (11/1/89)

- _____ C. Knew or had reason to know the victims were particularly vulnerable i.e., aged, handicapped, very young. (Pursuant to ORS 144.787, in cases of physical or sexual assault, a victim's particular vulnerability to injury shall constitute an aggravating factor.) (Explanation added 7/1/88 and amended 11/1/89)

- _____ D. Ability to make restitution or reparation and failed to do so. (1985 to present)

- _____ E. Violation of position of trust or recognized professional ethics. (7/1/88 to present)

- _____ F. Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime. (1985 to present)

- _____ G. There is a single conviction for a crime involving multiple victims or incidents. (1985 to present)

- _____ H. Concurrently imposed sentences not arising out of same criminal episode. (Amended 11/1/89)

- _____ I. Verified instances of repetitive assaultive conduct only when criminal episode(s) involved assaultive behavior. (7/1/88 to present)

- _____ J. More than three trust violations in the last five years as it relates to Item E of the Matrix Computation. (7/1/88 to present)

- _____ K. Persistent involvement in similar criminal offenses. (7/1/88 to present)

- _____ L. Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse). (7/1/88 to present)

- _____ M. Criminal history more extensive or serious than reflected by History/Risk Score. (7/1/88 to present)

- _____ N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted. (1985 to present)

- _____ O. Consecutive sentences pursuant to Section 4, Chapter 634, Oregon Laws 1987. (7/1/88 to present)

- _____ P. Crime committed as a part of gang related activity. (11/1/89)

- _____ Q. Other.

te: _____
: _____

EXHIBIT 5 – Part 2
(OAR 255-05-005, 255-35-006, 255-35-013, 255-75-096)

MITIGATING FACTORS

- _____ A. Evidence that misconduct by victim contributed to the criminal episode.
(7/1/88 to present)
-
- _____ B. Sustained effort to make restitution or reparation. (7/1/88 to present)
-
- _____ C. Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime. (1985 to present)
-
- _____ D. Evidence of withdrawal, or lack of sustained criminal intent. (7/1/88 to present)
-
- _____ E. Evidence of reduced responsibility or lack of mental capacity (e.g., mental retardation and/or severe mental/emotional disorder which is insufficient to constitute a defense but is indicative of reduced culpability.) (7/1/88 to present)
-
- _____ F. Successful period of community supervision, at least 18 months immediately preceding commission of crime. (7/1/88 to present)
-
- _____ G. Successful completion of treatment program and abstinence from substance abuse for one year during the three years immediately preceding commission of crime. (amended 11/1/89)
-
- _____ H. Criminal history less extensive or serious than reflected by History/Risk Score.
(7/1/88 to present)
-
- _____ I. Probation violation is technical in nature and not indicative of ongoing criminal pattern.
(7/1/88 to present)
-
- _____ J. The crimes were part of a "crime spree" and that the spree is not indicative of a persistent criminal orientation. (7/1/88 to present)
-
- _____ K. Special effort on the part of the perpetrator to minimize the harm or risk.
(1985 – 6/30/88, 11/1/89)
-

_____ L.Other.(11/1/89)

Inmate: _____

Inst: _____

EXHIBIT 5 – Part 3
(OAR 255-05-005, 255-35-006, 255-35-013, 255-75-096)

AGGRAVATING/MITIGATING FACTORS

MUST NOT BE ELEMENT OF CRIME OR SUBCATEGORY RATIONALE:

Any aggravating or mitigating circumstances which constitute a defining element, or subcategory rationale of the crime for which the prisoner was convicted or which resulted in a lower history risk score shall not justify variation from the guidelines.

MUST BE OTHER THAN FOUND IN HISTORY/RISK SCORE, CRIME SEVERITY RATING:

The Board may find Aggravation Factor Q (Other) and Mitigation Factor L (Other) when circumstances are not reflected or not fully reflected in the history/risk score, the crime severity rating, or otherwise in Exhibit 5 - Part 1 or Part 2.

VICTIM'S PARTICULAR VULNERABILITY:

In the case of a physical or sexual assault, pursuant to ORS 144.787, a victim's particular vulnerability to injury (such as youth, handicapped condition or advanced age) shall constitute an aggravating factor.

CONSECUTIVE SENTENCES AGGRAVATING FACTOR:

Pursuant to Section 4, Chapter 634, Oregon Laws 1987, for crimes committed on or after July 11, 1987, the Board shall consider consecutive sentences an aggravating factor, except when one of the crimes is Aggravated Murder, Murder, Assault I, Kidnapping I, Rape I, Sodomy I, Unlawful Sexual Penetration, Arson I, or Treason.

CRIME SPREE:

For the purpose of Exhibit 5 - Part 2, a crime spree is a set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.

**EXHIBIT 1
(OAR 255-35-006)**

OUTLINE FOR POST-SENTENCE REPORT

SECTION I: (Minimum information required)

1. Identifying Data
- 2a. Criminal History/Risk Assessment for Board of Parole Matrix System
- 2b. Criminal History Classification for Sentencing Guidelines System (for probations imposed prior to November 1, 1989 and revoked November 1, 1989 or after)
- 3a. Matrix Application
- 3b. Sentencing Guidelines Grid Block Classification (for probations imposed prior to November 1, 1989 and revoked November 1, 1989 or after)
4. Conviction Chronology and Arrest Record
5. Present Crime Synopsis
6. Aggravating and Mitigating Factors
7. Health, Physical and Mental/Substance Abuse
8. Brief Social Profile

SECTION II:

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

SECTION III:

Attachments, including transcripts, if forwarded by the sentencing judge

**EXHIBIT 1
(OAR 255-50-010)**

MISCONDUCT FACTORS

CATEGORY	AMOUNT OF TIME	
	MINIMUM	MAXIMUM
(1) Hazard to Human Life In no instance may the extension exceed 5 years.	50% of the prison term	100 of the prison term.
(2) Hazard to Security In no instance may the extension exceed 2 years.	25% of the prison term	50% of the prison term.
(3) Hazard to Property In no instance may the extension exceed 1 year.	10% of the prison term	20% of the prison term.
(4) Third in a series of rule violations in a three-month period, while assigned to any Department of Corrections program.	5% of the prison term	10% of the prison term. In no instance may the extension exceed 6 mos.

The extension must be set within the minimum and maximum range for the category of misconduct (see categories 1-4 above), unless the Board finds aggravation or mitigation based on those factors listed in OAR 255-05-005, Exhibit 5. If a basis for aggravation or mitigation is found by the Board, the maximum variation allowed to a majority of the Board would be twenty-five percent of the sanction recommended.

**EXHIBIT 2
(OAR 255-75-096)**

AGGRAVATION/MITIGATION IN PAROLE VIOLATION CASES

AGGRAVATION

Prior parole revocation.

Prior Board reprimand, revocation hearing, or like difficulty on present parole.

Less than three months to first difficulty.

Repetition of type conduct associated with commitment offense or past conditions (return to drug or alcohol abuse, assaultiveness, involvement in same type of criminal activity).

MITIGATION

No evidence of new criminal activity

No prior parole difficulty.

More than nine months to first difficulty.

Efforts to deal with problems associated with past criminal conduct.

Evidence of reduced responsibility or lack of mental capacity.

**EXHIBIT 1
(OAR 255-90-002, 255-90-003)**

**TIME TO BE SERVED ON PAROLE ON CRIMES
OCCURRING ON OR BEFORE 12-3-86**

OFFENSE SCORE SEVERITY RATING	CRIMINAL	HISTORY/RISK	ASSESSMENT	
	11-9 EXCELLENT	8-6 Good	5-3 Fair	2-0 Poor
1	6 mos.	6 mos.	6 mos.	6 mos.
2	6 mos.	6 mos.	6 mos.	6 mos.
3	6 mos.	6 mos.	6 mos.	6 mos.
4	6 mos.	6 mos.	6 mos.	1 year
5	6 mos.	6 mos.	1 year	1 year
6	1 year	1 year	1 year	1 year
7	1 year	1 year	1 year	1 year
8	1 year	1 year	1 year	1 year

The Board may vary the time served on parole on crimes occurring on or before 12/3/86 in cases in which death has occurred or the nature of the offense is of such seriousness that a longer period of supervision is needed than that established by the above guideline.

**EXTENSIONS OF PAROLE SUPERVISION PERIOD
IN CASES OF MISCONDUCT OR PAROLE VIOLATION**

- (a) In crime categories 1, 2, 3, and 4 extension may be imposed for up to an additional six months supervised parole.
- (b) In crime category 5, 6, 7, and 8 extension may be imposed for up to an additional one year supervised parole.
- (c) After a hearing, extensions may be imposed for up to an additional 36 months supervised parole. This is an exception to (a) and (b) above.
- (d) The period of supervision may exceed six months due to the nature of the crime.

**EXHIBIT 1
(OAR 255-70-001)**

**GENERAL/SPECIAL PAROLE AND POST-PRISON
SUPERVISION CONDITIONS**

Parole/Post-Prison Supervision is subject to all listed General Conditions and the designated Special Conditions. Prior to release the Board may modify the conditions at any time. After parole/post-prison supervision has commenced, conditions may be added upon your signed consent or after opportunity to be heard, orally or in writing.

Parole may be revoked for violation of any of these conditions and/or you may be returned when parole is not in your best interests or the best interests of society.

The Board may, at its discretion, sanction violations of Post-Prison Supervision Conditions; sanction may include returning you to the Department of Correction's custody.

As used in this exhibit, the following words have the following meanings: "Offender" means persons released to parole or post-prison supervision. "Parole officer" shall also mean the supervisory authority under the post-prison supervision system.

GENERAL CONDITIONS

1. Pay supervision fees, fines, restitution or other fees ordered by the Board.
2. Not use or possess controlled substances except pursuant to a medical prescription.
3. Submit to testing of breath or urine for controlled substance or alcohol use if the offender has a history of substance abuse or if there is a reasonable suspicion that the offender has illegally used controlled substances.
4. Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
5. Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.
6. If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.
7. Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.
8. Permit the supervising officer to visit the offender or the offender's residence or work site, and report as required and abide by the direction of the supervising officer.
9. Consent to the search of person, vehicle or premises upon the required of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.

10. Obey all laws, municipal, county, state and federal.
11. Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
12. Not possess weapons, firearms, or dangerous animals.

SPECIAL CONDITIONS

1. Offender shall be evaluated by a mental health evaluator and follow all treatment recommendations.
2. Offender shall follow a psychiatric or psychotropic medication monitoring program with a physician per the physician's instructions.
3. Offender shall have no contact with minor females and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades) without prior written approval from their supervising officer.
4. Offender shall have no contact with minor males and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades) without prior written approval from their supervising officer.
5. Offender shall submit to random polygraph tests as part of a sex offender surveillance program. Failure to submit to the tests may result in return to Department of Corrections custody. Specific responses to the tests shall not be the basis for return to Department of Corrections custody.
6. Offender shall enter and complete or be successfully discharged from a recognized and approved sex offender treatment program which may include polygraph and/or plethysmograph testing and a prohibition on possession of printed, photographed or recorded materials that the offender may use for the purpose of deviant sexual arousal.
7. Other: Special conditions may be imposed that are not listed above when the Board of Parole and Post-Prison Supervision determines that such conditions are necessary.
8. Offender shall have no contact with:

EXHIBIT 2
(OARs 255-35-006, 255-95-005)

DEPARTMENT OF CORRECTIONS
PRE-SENTENCE INVESTIGATION

PSI:

DATE:

SID#:

NAME:

AKA:

ADDRESS:

DOB:

DOB #2:

SEX:

RACE:

HEIGHT:

WEIGHT:

HAIR:

EYES: OTHER NUMBERS: SCARS-MARKS-TATTOOS

SS NO.:

SS NO. 2:

FBI NO.:

DR LIC:

CUSTODY STATUS:

DETAINERS OR OTHER CHARGES:

CONCERNED AGENCIES:

SUBMITTED BY:

BRANCH:

CURRENT CONVICTIONS

CASE	CNTY	JUDGE	DISTRICT ATTORNEY	DEFENSE COUNSEL	A/R
ORS	(PARA)	CLS	CAT RISK RANGE	COURT NO. DA CASE NO.	
NAME:SID:			PSI:	PAGE:	

AK

3-14-97

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

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

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on

09-01-95

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

AMEND: OAR 255-005 -005

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.050, 144.140

SUBJECT MATTER: The Board is amending its definitions to comply with the Department of Corrections' definitions of "inmate" and "offender". The Board is also defining "revocation", "inactive parole and inactive post-prison supervision", "active supervision", and "victim".

For further information contact:

Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments)
of Rules of the Board of Parole and) Statement of Need
Post-Prison Supervision) and Justification

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendments of the above noticed rule based on the following reasons:

The Board is revising its definitions.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.050, 144.140

D) *Documents Relied Upon:* None.

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This amended rule overall, will not have any appreciable economic effect on the Board. It will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this amendment.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this amendment.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

None.

Prepared by: Marva C. Fabien Date: 8-14-95
Marva C. Fabien

Title: Chairperson

DIVISION 5

DEFINITIONS

This rule has been renumbered.

255-005-0005

Definitions

- (1) "**Abscond**": Unauthorized absence from parole or post-prison supervision.
- (2) "**Active Community Supervision**": A period of supervision in the community, requiring the supervising officer's regular contact and monitoring to assure that the supervisee complies with the conditions of parole or post-prison supervision, has committed no new crimes and has paid restitution, attorney fees, and compensatory fines, if required.
- (3) "**Active Supervision**": Supervision requiring the supervising officer's regular contact and monitoring to assure continued compliance with the general and special conditions of parole or post-prison supervision.

"Active Supervision" shall not include:
 - (a) the period of confinement in a local, state, or federal correctional facility while serving on parole or post-prison supervisee;
 - (b) the period of time between the suspension of parole or post-prison supervision and the date parole or post-prison supervision is continued;
 - (c) inactive parole or inactive post-prison supervision;
 - (d) involuntary commitment to a state or federal psychiatric facility.
- (4) "**Aggravation**": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1 and E-3.
- (5) "**BAF**": A Board order after a decision called a "Board Action Form".
- (6) "**Base Range**": The range for each crime category reflected in Exhibit C under the "excellent" column.
- (7) "**Board**": Board of Parole and Post-Prison Supervision.
- (8) "**Board Review Packet**": The information the Board shall consider at the inmate's hearing. Each of the Divisions which establishes a hearing shall list the contents of the packet.
- (9) "**Compensatory Fines**": A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). The court may award compensatory fines in addition to restitution.

- (10) **"Correctional Facility"**: Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order.
- "Correctional Facility"**: includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect or after a finding of guilty except for insanity.
- (11) **"Crime Severity Rating"**: A classification for crimes committed prior to November 1, 1989, from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibits A-I, A-II, and A-III.
- (12) **"Crime Spree"**: A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstances as to be the product of a continuous disposition or intent.
- (13) **"Date of Return"**: The date another in-state or out-of-state jurisdiction physically returns the inmate to the Department of Corrections' custody following a hold.
- (14) **"De Novo Hearing"**: A new initial prison term hearing, required when a court orders additional consecutive sentences for crimes which occurred prior to the first prison term hearing.
- (15) **"Escape"**:
- (a) the unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;
 - (b) includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;
 - (c) does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.
- (16) **"Future Disposition Hearing"**: A hearing at which the Board orders the sanction for a violation of parole or post-prison supervision conditions.
- (17) **"Gang Member"**: A person who associates with a group which identifies itself through the use of a name, unique appearance, language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity.
- (18) **"Gang-Related Activity"**: Crime committed by a gang member:
- (a) with other known gang members;
 - (b) against other known gang members; or
 - (c) against a person who is not a gang member; in order to further the purposes of the gang or impress other gang members.
- (19) **"History/Risk Score"**: A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B ,Part I and Part II.

- (20) **"Inactive Parole and Inactive Post-Prison Supervision"**: The offender remains under supervision however;
- (a) there is no direct supervision by a supervising officer and no requirement of regular reporting;
 - (b) no additional supervision fees; and
 - (c) the offender remains subject to arrest by a supervising officer for violation of conditions of supervision and return to active supervision at any time until expiration of the sentence or post-prison supervision term as outlined in Division 94.
- (21) **"In Camera Hearing"**: The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.
- (22) **"Initial Parole Release Date"**: The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).
- (23) **"Inmate"**: Any person under the supervision of the Department of Corrections or a local supervisory authority who is not on parole, post-prison supervision or probation status (also referred to as prisoner).
- (24) **"Inoperative Time"**: Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.
- (25) **"Less Than the Sum of the Terms"**: An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.
- (26) **"Matrix Ranges"**: Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.
- (27) **"The Matrix"**: A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.
- (28) **"Mitigation"**: The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant to Exhibit E-2 and E-3.
- (29) **"Offender"**: Any person under the supervision of the Department of Corrections or a local supervisory authority who is not presently in the custody of a correctional facility, including persons on probation, parole or post-prison supervision.
- (30) **"Parole"**: A Board authorized conditional release from a state correctional facility into the community or to a detainer.
- (31) **"Particularly Violent or Otherwise Dangerous Criminal Conduct"**: Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.
- (32) **"Parole Board Record"**: The file the Board maintains for each inmate/offender containing the information listed in ORS 144.185.

- (33) "**Period Under Review**": Under Division 40, the time already served on the prison term, normally the three (3) or (5) year period prior to the personal review hearing.
- (34) "**Post-Prison Supervision**": Applies to crimes committed on or after November 1, 1989. A term, as set by statute or the court under the supervision of the Department of Corrections or a correctional agency designated by the Department or a local supervisory authority.
- (35) "**Principal Range**": The range of months for the crime holding the highest crime severity rating. When the ranges are the same, the Board shall designate one range as the principal range.
- (36) "**Preponderance**": Evidence which is of greater weight or more convincing than the evidence offered in opposition to it.
- (37) "**Probable Cause**": A substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it.
- (38) "**Prison Term**": The Board established time the inmate must serve before the initial parole release date.
- (39) "**Prison Term Hearing**": The hearing at which the Board establishes an inmate's prison term and initial parole release date.
- (40) "**Revocation**": An action by the Board to terminate an offender's parole or post-prison supervision.
- (41) "**Revocation Hearing**": A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and whether the Hearings Officer should recommend that the parolee or offender return to custody or continue on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)
- (42) "**Serious Physical Injury**": Any physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.
- (43) "**Stranger**": A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.
- (44) "**Subcategory**": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).
- (45) "**Subordinate Range**": Any range less than or equal to the principal range.
- (46) "**Subpoena Duces Tecum**": A subpoena requiring the party to appear at a hearing with a document or piece of evidence to be examined at the hearing.
- (47) "**Summing the Ranges**": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-35-021.
- (48) "**Supervising Officer**": Parole and post-prison supervision officer.

- (49) "**Supervisory Authority**": The state or local corrections agency or official designated in each county by that county's Board of County Commissioners or County Court to operate correction supervision services, custodial facilities, or both (per ORS 144.087(1)).
- (50) "**Unauthorized Absence**": Time spent outside a state correctional facility without Department of Corrections' or local supervisory_authority's authorization, whether it is an escape or an unauthorized departure.
- (51) "**Unified Range**": The total range computed under OAR 255-35-021 for consecutive sentences.
- (52) "**Unsum the Ranges**": To establish a matrix range at less than the unified range. The effect of unsumming is treatment of one or more ranges as if concurrent.
- (53) "**Variations**": The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.
- (54) "**Victim**": The actual victim, a representative selected by the victim, the victim's next of kin or, in the case of abuse or corpse in any degree, an appropriate member of the immediate family of the decedent (Per ORS 144.120(7)).
The person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse or corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor (Per ORS 131.007).

Statutory Authority: ORS 144.050, 144.140

History: (5/19/88; 12/6/88; 11/1/89; 10/5/90; 10/15/91; 10/9/92, 03/14/97)



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FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

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

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

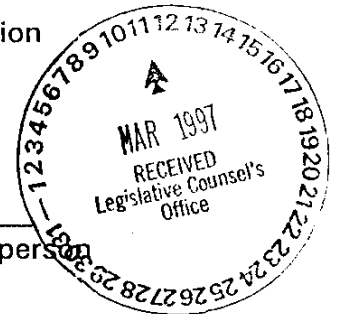
Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

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

AMEND: OAR 255-012-0001, 0005, 0010, 0035
REPEALED: 255-012-0015, 0020, 0025, 0030,
as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D. L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 291.021

SUBJECT MATTER: The Board of Parole & Post-Prison Supervision is amending its rules relative to Personal Service Contracts in order to be in compliance with overriding statewide rules promulgated for personal service contracts under OAR Chapter 125, Division 20 and 22, which became effective February 1, 1995.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rules based on the following reasons:

The Department of Administrative Services has adopted statewide rules governing personal services contracts, OAR Chapter 125, Divisions 20 and 22. These amendments will bring the Board into conformation with the statewide rules.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* *ORS 291.021, 279.005, 279.111*

D) *Documents Relied Upon:* *OAR Chapter 125, Divisions 20 & 22*

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This amended rule overall, will not have any appreciable economic effect on the Board. It will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this amendment.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this amendment.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

Prepared by: Marva C. Fabien Date: 8-14-95
Marva C. Fabien

Title: Chairperson

DIVISION 12

PERSONAL SERVICE CONTRACTS

255-012-0001

When Personal Service Contracts Are Used

The Board of Parole and Post-Prison Supervision may contract for services by use of personal service contracts or interagency or intergovernmental service agreements as authorized by the Board's legislatively approved budget when:

- (1) the work to be performed requires specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment; or
- (2) the Board's staff cannot do the work within a reasonable time; or
- (3) an independent and impartial evaluation of a situation is required; or
- (4) it is substantially less costly and more efficient, in the long run, to contract for the work and union contracts would not be impaired.

Statutory Authority: ORS 291.021

History: (5/23/89; 11/1/89; 10/9/92, 03/14/97)

255-012-0005

Limitations

- (1) The Board shall draft and process personal service contracts in accordance with OAR Chapter 125, Divisions 20 and 22, ORS 279.005 through 279.111, ORS 291.021 and any other applicable laws.

Statutory Authority: ORS 291.021

History: (5/23/89; 10/9/92, 03/14/97)

255-012-0010

Approval

- (1) The Chairperson of the Board, or a specifically designated Board Member are authorized to sign personal services contracts.

Statutory Authority: ORS 291.021

History: (5/23/89; 10/9/92, 03/14/97)

255-012-0015

Statement of Work

Statutory Authority: ORS 291.021

History: (5/23/89; 10/9/92, 03/14/97- repealed)

255-012-0020

03/14/97

Personal Service Contracts

Procurement

Statutory Authority: ORS 291.021
History: (5/23/89; 10/9/92, 03/14/97 - repealed)

255-012-0025

Contractor Selection

Statutory Authority: ORS 291.021
History: (5/23/89; 10/9/92, 03/14/97 - repealed)

255-012-0030

Contract Termination

Statutory Authority: ORS 291.021
History: (5/23/89; 10/9/92, 03/14/97- repealed)

255-012-0035

Contract File

The Board shall maintain a contract file, which shall contain:

- (1) statement of justification for the contract;
- (2) written justification for negotiation in lieu of competitive procurements, if applicable;
- (3) copy of the request for proposals;
- (4) list of prospective contractors who were requested to submit proposals, resumes or vitaes;
- (5) mailing list used to notify other prospective contractors which shall include where applicable Advocate for Minority, Women and Emerging Small Business.
- (6) copy of each proposal, resume or vitae submitted;
- (7) method of evaluating proposals and how contractor was selected;
- (8) record of negotiations and results;
- (9) resulting contract, including the tax compliance certification.
- (10) Department of Administrative Services Reporting Form, until notified by the Division that automation has been achieved.

Statutory Authority: ORS 291.021
History: (5/23/89, 03/14/97)

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

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

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

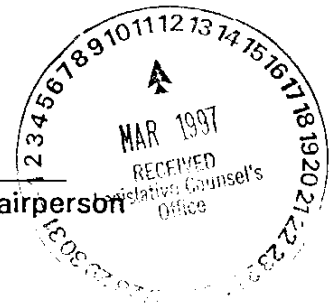
NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

AMEND: OAR 255-030 - 0010, 0013, 0015, 0023, 0024, 0025, 0027, 0032
0040, 0055

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.050, 144.135

SUBJECT MATTER: The Board of Parole & Post-Prison Supervision is amending its rules relative to final orders. Current practice involves the listing of individual Board Members' votes on final decisions. The amendment eliminates that practice which is neither necessary nor required by statute.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rule based on the following reasons:

The amended rule simplifies recordation and notation of Board Member votes as reflected in its final appealable orders. The current practice of listing individual Board Member's names is neither necessary nor required by current law.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.050; 144.135

D) *Documents Relied Upon:* None.

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION

FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This amended rule overall, will not have any appreciable economic effect on the Board. The changes will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this amendment.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this amendment.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

None.

Prepared by: Marva C. Fabian Date: 8-14-95

Title: Chairperson

DIVISION 30

PRISON TERM HEARING PROCEDURE

255-030-0002

Policy

History: (7/20/81, temporary; 5/31/85, repealed)

255-030-0005

Definitions

History: (2/1/79; 5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88, repealed)

255-030-0010

Scheduling Prison Term Hearings

- (1) The Board shall conduct a hearing to establish a prison term for each new inmate whose crime was committed prior to November 1, 1989 within:
 - (a) six (6) months of admission to a Department of Corrections facility for those sentenced to five years or less;
 - (b) eight (8) months of admission to a Department of Corrections facility for those sentenced to more than five years but less than fifteen years; or
 - (c) twelve (12) months of admission to a Department of Corrections facility for those sentenced to life or fifteen (15) years or more.
- (2) The Board shall follow section 1 of this rule to schedule a prison term hearing for any additional sentence received while in custody of a Department of Corrections facility.
- (3) For those prison term hearings which must be conducted within six (6) months, the Board may defer setting a prison term for ninety days to obtain additional information.
- (4) The Board may establish prison terms after hearing or administratively pursuant to 255-30-024.

Statutory Authority: ORS 144.120(1)

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)

255-030-0012

Scheduling and Hearing Procedure for Aggravated Murder

History: (11/4/81, temporary; 5/19/82; 5/31/85, repealed)

03/14/97

Prison Term Hearing

255-030-0013

Notification of Hearing

- (1) The Board shall send written notice of the hearing and its purpose to the inmate. The inmate shall receive a copy of the Board Review Packet at least 14 days prior to the hearing.
- (2) If the inmate did not receive 14 days notice, the Board may reschedule the hearing or the inmate may waive the notice and the Board shall conduct the hearing.
- (3) The Board shall attempt to notify the victim, if the victim requests notification and furnishes the Board a current address, and the District Attorney of the committing county at least thirty (30) days before all hearings by sending written notice to the current addresses of both parties.

Statutory Authority: ORS 144.120(7), 144.130

History: (12/2/86, temporary; 4/28/87; 5/19/88; 4/5/90; 10/9/92, 03/14/97)

255-030-0015

When Full Board is Required; Procedures for Board Decision

- (1) Except as otherwise provided in this rule, a panel of two voting members of the Board shall conduct all prison term hearings and shall make the final decision.
- (2) A majority of the Board may conduct the following hearings; a majority of the Board shall make the final decision in cases in which:
 - (a) the court sentenced the inmate under ORS 161.725 and 161.735 as a dangerous offender;
 - (b) the Department of Corrections recommends an extension of more than two years in the prison term for misconduct;
 - (c) the court ordered a minimum sentence pursuant to ORS 144.110 and the minimum exceeds the matrix range and the variations permitted a panel;
 - (d) a panel recommends a decision to set the prison term below a judicially set minimum sentence (A panel may uphold a judicial minimum.);
 - (e) a panel recommends unsumming a unified range.
- (3) A majority of the Board may conduct the following hearings; the full Board shall make the final decision:
 - (a) cases involving a prisoner sentenced to death for aggravated murder or life imprisonment for murder or aggravated murder;
 - (b) cases where the inmate was convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the prisoner with causing the death of the victim.

- (4) If a Board member is not present at a hearing, and statute or rule compels review, or the vote may affect the outcome of the hearing, the Board member may vote administratively after reviewing the Board Review Packet and the handwritten Board Action Form with attached exhibits, or may request that a hearing be rescheduled. The Board's action shall be considered final if the absent member's vote is not required for a final decision.
- (5) A panel of one Board member or of one Board member and one hearings officer may conduct prison term hearings for inmates convicted of non-person-to-person crimes. In cases of a panel consisting of one Board member, another member shall vote after review of the record as provided in section 4 of this rule. A hearings officer may not participate on a panel in cases in which, pursuant to ORS 144.110, a court imposed a minimum sentence that exceeds the matrix range and variations permitted a panel.
- (6) (a) If there is a division in a panel so that a decision is not unanimous, another Board member shall vote after review of the record as provided in section 4 of this rule.
- (b) If the original panel was made up of one Board member, and the member voting after administrative review of the record disagrees with the decision, the chairperson shall reassign the case to a panel made up of the remaining Board members. If this second panel agrees with neither member of the original panel, the chairperson will refer the case for hearing and decision before the full Board.
- (c) When a panel recommends a decision to exceed the allowable variation from the matrix permitted to the panel and a third vote, the chairperson shall reassign the case for hearing and decision before the full Board.
- (d) When a panel recommends denying parole, the chairperson shall reassign the case for hearing before the full Board, and three members must affirmatively agree to deny parole, except that if the result is life imprisonment, the vote must be unanimous.

Statutory Authority: ORS 144.035, 144.054
 History: (2/1/79; 5/31/85; 11/13/86, temporary; 12/2/86, temporary; 3/25/88, temporary; 5/19/88; 12/6/88; 11/1/89; 5/1/91, temporary; 10/15/91, 03/14/97)

255-030-0020

Procedures for Full Board Decisions

History: (2/1/79; 5/31/85; 11/13/86, temporary; 12/2/86, temporary; 3/25/88, temporary; 5/19/88, repealed)

255-030-0021

Teleconference Hearing

At the chairperson's discretion, the Board or its designated representative may conduct any hearing 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)

03/14/97

Prison Term Hearing

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)

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)

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)

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

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)

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)

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)

255-030-0045

Exemptions from Disclosure

History: (2/1/79; 5/31/85; 5/19/88, repealed)

255-030-0050

Record of Hearing: Content; Time to be Maintained

History: (2/1/79; 5/31/85; 5/19/88, repealed)

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)

255-030-0056

Notification of Release; Parties Notified

History: (12/2/86, temporary; 4/28/87; 5/19/88, repealed)

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

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 03-10-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

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

AMEND: OAR 255-032 - 0005, 0015, 0035

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 163.105

SUBJECT MATTER: The proposed amendment adds the new time frame to be used in reviewing Aggravated Murder cases as mandated by new legislation.

For further information contact: Jim Eckland
Executive Director
503-945-0919

STATE OF OREGON
DEPARTMENT OF CORRECTIONS
BOARD OF PAROLE AND POST-PRISON SUPERVISION

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rules based on the following reasons:

Under the former statute 163.105 (pre-1995), the Board reviewed an inmate's case of Aggravated Murder at any time after 20 years from the date of the imposition of sentence. The new law specifies the required hearing to occur after 25 years. This proposed amendment conforms the rules to the new law.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 163.105

D) *Documents Relied Upon:* HB 3439 (B-Engrossed, 1995)

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

These amended rules overall, will not have any appreciable economic effect on the Board. It will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None known.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None known.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by these amendments.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by these amendments.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

HB 3439 (B-Engrossed, 1995)

Prepared by: Marva S. Lohr Date: 8-14-95

Title: Chairperson

DIVISION 32

**AGGRAVATED MURDER
ORS 163.105**

255-032-0005

Prison Term Hearing to be Held

- (1) A person convicted of Aggravated Murder under ORS 163.095 shall receive a hearing within one year of sentencing. At the hearing the Board shall set a review date congruent with the minimum terms set forth in OAR 255-32-010 rather than a parole release date.
- (2) Persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.
- (3) Persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Corrections' custody for a crime, to which the aggravated murder is consecutive.

Statutory Authority: ORS 163.105
History: (5/31/85; 11/1/89; 1/16/91; 10/9/92; 03/14/97)

255-032-0010

Minimum Period of Confinement Pursuant to ORS 163.105

- (1) The minimum period of confinement for a person convicted of Aggravated Murder as defined by ORS 163.105(1) shall be thirty (30) years.
- (2) The minimum period of confinement for a person convicted of Aggravated Murder as defined by ORS 163.105(2) prior to December 6, 1984, shall be twenty (20) years.

Statutory Authority: ORS 163.105
History: (5/31/85; 5/19/88)

255-032-0015

Petition/Purpose for Hearing

The inmate may petition and the Board shall hold a hearing to determine whether the inmate is likely to be rehabilitated within a reasonable period of time:

- (1) Any time after twenty-five (25) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(1) for an offense committed on or after June 30, 1995; or
- (2) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(1) for an offense committed before June 30, 1995; or

03/14/97

Aggravated Murder

- (3) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-32-010(2).

Statutory Authority: ORS 163.105

History: (5/31/85; 5/19/88; 1/16/91, 03/14/97)

255-032-0020

Purpose of Hearing

- (1) The sole issue of the hearing shall be to determine whether or not the inmate is likely to be rehabilitated within a reasonable period of time. Criteria indicating whether the inmate is likely to be rehabilitated prior to release include:
- (a) the inmate's involvement in correctional treatment, medical care, educational, vocational or other training in the institution will substantially enhance their capacity to lead a law-abiding life when released;
 - (b) the inmate's institutional employment history;
 - (c) the inmate's institutional disciplinary conduct;
 - (d) the inmate's maturity, stability, demonstrated responsibility, and any apparent development in the inmate personality which may promote or hinder conformity to law;
 - (e) the inmate's past use of narcotics or other dangerous drugs, or past habitual and excessive use of alcoholic liquor;
 - (f) the inmate's prior criminal history, including the nature and circumstances of previous offenses;
 - (g) the inmate's conduct during any previous period of probation or parole;
 - (h) the inmate does not have a mental or emotional disturbance, deficiency, condition or disorder predisposing them to the commission of a crime to a degree rendering them a danger to the health and safety of the community;
 - (i) the adequacy of the inmate's parole plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood or community in which the inmate plans to live;
 - (j) there is a reasonable probability that the inmate will remain in the community without violating the law, and there is substantial likelihood that the inmate will conform to the conditions of parole.

Statutory Authority: ORS 163.105

History: (5/31/85; 10/29/93)

03/14/97

Aggravated Murder

255-032-0025

Manner of Hearing

- (1) The Board shall conduct the proceeding in the manner prescribed for a contested case hearing under ORS 183.310 to 183.550 except that:
 - (a) The inmate shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and
 - (b) If the inmate is without sufficient funds to employ an attorney, the inmate shall have the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$40 per hour and \$200 per case. The attorney shall send the Board a billing within 90 days of the hearing.
- (2) If upon hearing all the evidence, the Full Board upon a unanimous vote of all members finds that the inmate is capable of rehabilitation and that the terms of the inmate's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate's confinement to life imprisonment with the possibility of parole or work release and shall set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.
- (3) When a inmate has a consecutive sentence for a crime other than aggravated murder, the Board shall determine the prison term for the consecutive sentences(s) pursuant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a release date on the aggravated murder sentence established pursuant to ORS 163.105.

Statutory Authority: ORS 163.105

History: (5/31/85; 5/19/88; 11/1/89; 1/16/91; 5/1/91, temporary; 10/15/91; 10/29/93)

255-032-0035

Effect of Denying Relief Request

If the Board finds that the inmate is not capable of rehabilitation, the Board shall deny the relief sought in the inmate petition. Not less than two years after the denial the inmate may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.

Statutory Authority: ORS 163.105

History: (5/31/85; 5/19/88, 03/14/97)

Record/Notice

255-032-0040

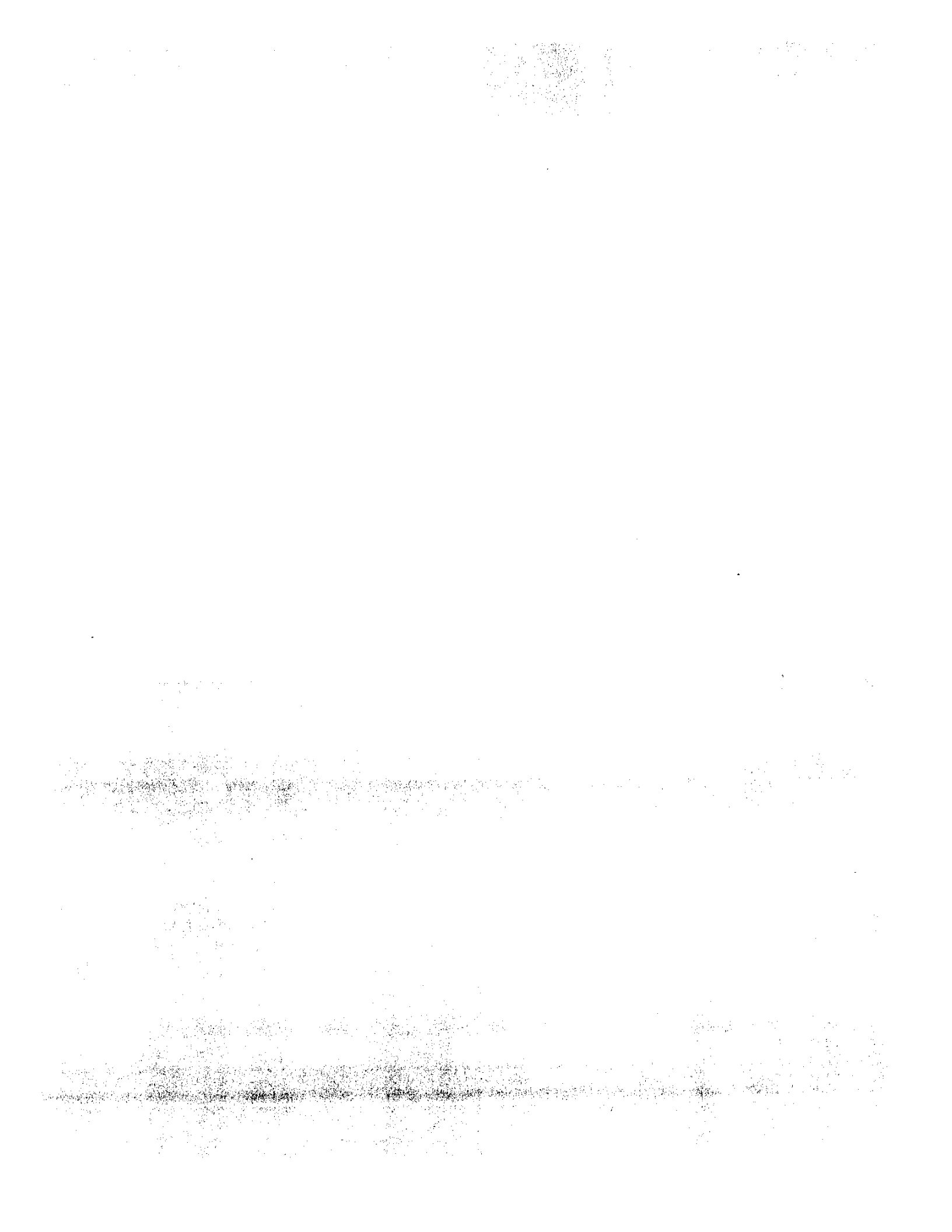
Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in Divisions 15 and 30 of these rules.

Statutory Authority: ORS 163.105

History: (5/31/85)

03/14/97

Aggravated Murder



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

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

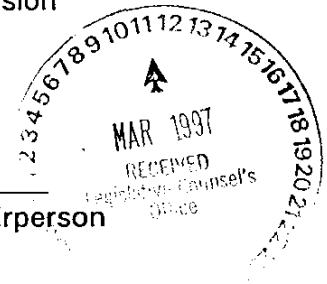
NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

AMEND: OAR 255-050 - 0005, 0010, 0011, 0012, 0013, 0015, 0025

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.050, 144.125, 144.140

SUBJECT MATTER: The Board of Parole & Post-Prison Supervision is amending its rules relative to unauthorized absence by an inmate. Current practice involves an administrative review prior to rescinding the parole release date of an inmate who is on unauthorized absence from a correctional facility. The amendment eliminates the practice of an administrative review prior to rescinding the parole release date, which is neither necessary nor required by statute.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rule based on the following reasons:

The rescinding of the parole release date at the time the Board is notified of an unauthorized absence of an inmate does not require a decision or review by a Board Member. Notification stops the credit for time served as a matter of course. Once returned to custody, the inmate retains the availability of review upon return to custody and calculation of remaining time to serve and the setting of an adjusted parole release date.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.050; 144.125, 144.140

D) *Documents Relied Upon:* None.

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This amended rule overall, will not have any appreciable economic effect on the Board. The changes will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this amendment.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this amendment.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

None.

Prepared by: Maura C. Fabien Date: 8-14-95

Title: Chairperson

DIVISION 50

POSTPONING A PAROLE RELEASE DATE FOR SERIOUS MISCONDUCT

This Division is applicable to Prisoner's Who
Committed Crimes Prior to November 1, 1989

255-050-0005

Grounds for Postponing a Parole Release Date

- (1) The Board shall postpone an inmate's scheduled release date according to the procedures set forth in OAR 255-50-010, if it finds that the inmate engaged in serious misconduct during confinement.
- (2) The Board may postpone an inmate's scheduled release date upon:
 - (a) a report of serious misconduct and a recommendation for an extension of the prison term from the Director of the Department of Corrections or designee;
 - (b) reasonable grounds to believe an inmate has violated a law or engaged in serious misconduct; or
 - (c) the refusal of an inmate to participate in a Board ordered psychiatric or psychological evaluation pursuant to ORS 144.223.
 - (d) notification of unauthorized absence.
- (3) If serious misconduct occurs before the Board has established an inmate's prison term and the conduct justifies an extension of the prison term, the Board shall add the time for misconduct to the prison term when the Board establishes the prison term.
- (4) If serious misconduct occurs after the Board has established a prison term and the conduct may justify an extension of the prison term the Board may rescind the parole release date and order a postponement hearing to consider extending the prison term.

Statutory Authority: ORS 144.125,144.223

History: (2/1/79; 5/31/85; 5/19/88; 7/1/88; 11/1/89; 10/9/92; 10/29/93, 03/14/97)

Postponement Procedures: Hearing by Board

255-050-0010

- (1) When the Board conducts a parole postponement hearing, the following procedure shall apply:
 - (a) the Board shall give the inmate notice of the hearing and its purpose; the provisions of Division 30 as to appearance, disclosure, and record shall apply except:
 - (b) an inmate may not waive his/her right to appear;

03/14/97

Serious Misconduct

- (c) an inmate may not relitigate facts which the institution hearings officer has found at the disciplinary hearing.
- (2) If the Board finds serious misconduct, it may be classified within one of the following four categories and the Board may extend the prison term as provided in Exhibit G:
- (a) hazard to human life or health;
 - (b) hazard to security;
 - (c) hazard to property; or
 - (d) third in a series of rule violations within a three month period, while assigned to any Department of Corrections program.
- (3) The Board may request another hearing before the disciplinary committee originating the recommendation for extension, or choose not to extend a prison term if the Board finds that other disciplinary options are adequate for the seriousness of the misconduct, considering the factors found in OAR 255-50-011.
- (4) The Board may continue the postponement hearing and order a psychiatric or psychological examination when it appears that a severe emotional disturbance may be present. If a psychiatrist or psychologist makes a diagnosis of present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may defer release to a specified future date. When deciding not to set a parole release date, the Board shall apply OAR 255-35-030.
- (5) A panel shall decide cases when a parole release date is extended for less than two years, unless OAR 255-30-015 previously designated it a Full Board case.
- (6) When the recommended extension of the prison term exceeds the inmate's statutory good time date or the sentence expiration date, the Board may extend the prison term up to two days less than the good time date or expiration date.
- (7) If the Board extends the prison term, the Board shall give the inmate:
- (a) The final order, including a written statement of the category of misconduct, if applicable, the facts and specific reasons for the decision, including the Board members' individual votes; and
 - (b) Notice of the right to administrative appeal pursuant to Division 80.

Statutory Authority: ORS 144.125, 144.223

History: (2/1/79; 5/31/85; 5/19/88; 11/1/89; 10/9/92, 03/14/97)

Department of Corrections Report of Misconduct
255-050-0011

- (1) The Director of the Department of Corrections or designee may recommend an extension of an inmate's parole release date as a disciplinary sanction.
- (2) The following guidelines shall apply to a recommendation to extend a prison term:

03/14/97

Serious Misconduct

- (a) The Department shall have provided the inmate an opportunity for a Department of Corrections disciplinary hearing, after which the Department has found the inmate violated a rule governing conduct: and
 - (b) The Department shall not recommend an extension of a prison term unless all other disciplinary options have been specifically considered and deemed, individually and in combination, inadequate for the seriousness of the misconduct.
- (3) The Department shall consider the following factors in determining whether an extension is appropriate:
- (a) effectiveness of the sanction as a disciplinary measure, both to the prisoner and to the general prison population;
 - (b) degree of hazard posed to human health or life, facility security, or to property;
 - (c) seriousness of the misconduct had it been committed in the wider community;
 - (d) circumstances of the misconduct; and
 - (e) the inmate's prior record or institutional conduct.
- (4) The Board of Parole and Post-Prison Supervision shall not extend a prison term on a recommendation from the institution unless the recommendation classifies the misconduct within one (1) of the following four (4) categories:
- (a) hazard to human life or health;
 - (b) hazard to security;
 - (c) hazard to property; or
 - (d) third in a series of rule violations within a three month period, while assigned to any Department of Corrections program.

Statutory Authority ORS 144.125, 144.223
History: (11/1/89; 10/9/92, 03/14/97)

Postponement When Informed of Reasonable Grounds
255-050-0012

- (1) The Board may rescind the parole release date when the Board is informed of reasonable grounds to believe that an inmate has violated a law or has engaged in serious misconduct. A fact-finding hearing shall be held by a Department of Corrections hearings officer to determine if the law violation or misconduct occurred. However, if the inmate has received an additional sentence to the Department of Corrections custody, no hearing is required.

Statutory Authority: ORS 144.125, 144.223
History: (11/1/89, 03/14/97)

03/14/97

Serious Misconduct

**Postponement for Refusing to Participate in a Psychiatric
or Psychological Evaluation**
255-050-0013

- (1) The Board may postpone a parole release date until a specified future date when a prisoner has refused to participate in a psychiatric or psychological evaluation, which the Board ordered pursuant to ORS 144.223, prior to the prisoner's release on parole.
- (2) When the Board rescinds a parole release date under this section, the Board shall conduct a hearing to postpone the inmate's release date.
- (3) The Board may postpone the parole release date up to two days before the prisoner's good time date.

Statutory Authority: ORS 144.050, 144.140, 144.125, 144.223

History: (5/19/88; 11/1/89; 1/13/92; 10/9/92, 03/14/97)

Unauthorized Absence
255-050-0015

- (1) The parole release date of an inmate who is on unauthorized absence from a correctional facility shall be rescinded automatically. The Board may schedule a hearing when the inmate is available or the Board may administratively reset the parole release date by adding the inoperative time to the prison term.
- (2) The Board or its designee shall add the inoperative time to the prison term in the following manner:
 - (a) If the unauthorized absence occurs prior to the parole release date and the prisoner returns to custody of the Department of Corrections after the parole release date:
 - (A) Count the first day of unauthorized absence and every day up to the parole release date.
 - (B) Add the total number of days determined in (A) of this subsection to the date of return to the Department of Corrections' custody following a hold in another in-state or out-of-state jurisdiction.
 - (b) If the unauthorized absence occurs prior to the parole release date and the prisoner returns to the Department of Corrections' custody prior to the parole release date:
 - (A) Count the first day of unauthorized absence and every day up to the date of return to the Department of Corrections following a hold in another in-state or out-of-state jurisdiction.
 - (B) Add the total number of days determined in (A) of this subsection to the previous parole release date.

- (c) If the Board deferred the initial parole release date to a specific future date that specific future date shall be used for purposes of calculations pursuant to section (2) of this rule.

Statutory Authority: ORS 144.125, 144.223

History: (2/1/79; 2/15/81; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88; 11/1/89; 10/9/92, 03/14/97)

Postponement Procedure: Unauthorized Absence; Law Violation
255-050-0016

History: (11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 11/1/89, repealed)

Waiver
255-050-0017

History: (11/25/81, temporary; 5/19/82; 5/31/85, repealed)

Hearing After Rescission of Parole
255-050-0018

History: (11/25/81, temporary; 5/19/82; 5/31/85, repealed)

Basis for Rescission
255-050-0020

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85, repealed)

Misconduct Board Review Packet
255-050-0025

The Misconduct Board Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psychological evaluations;
- (4) disciplinary report from the institution;
- (5) correspondence;
- (6) field parole analysis report;
- (7) court orders;
- (8) PSI, PSR, PAR or document of similar content;
- (9) DOC hearings officer's findings and recommendations.
- (10) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.125, 144.223

History: (5/19/88; 11/1/89, 03/14/97)

03/14/97

Serious Misconduct

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FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

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

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on

09-01-95

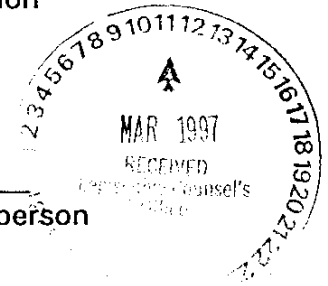
NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

AMEND: OAR 255-060 - 0006, 0008, 0012, 0013, 0014, 0020, 0030

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.223

SUBJECT MATTER: The amended rules clarify existing Board authority to carry out statutory responsibility to grant or deny parole.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rule based on the following reasons:

The proposed amended rules conform to current usage of the term "inmate" in place of "prisoner". This amendment clarifies that there are not two separate categories of those incarcerated in State institutions.

The proposed amendment to 255-60-012(2) helps clarify the existence of the Board's authority to postpone an initial parole release date and order a psychological or psychiatric evaluation of the inmate before the inmate is released.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.223

D) *Documents Relied Upon:* None.

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

These amended rules overall, will not have any appreciable economic effect on the Board. The changes will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None known.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by these amendments.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by these amendments.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

None.

Prepared by: Marva C. Faber Date: 8-14-95

Title: Chairperson

DIVISION 60

**RELEASE TO POST-PRISON SUPERVISION OR PAROLE
AND EXIT INTERVIEWS**

255-060-0006

Exit Interviews: Parole Plan; and Psychiatric Records

- (1) At any time prior to an inmate's scheduled release to post-prison supervision or parole, the Board on its own initiative or at the request of the Department of Corrections, may conduct an exit interview to review the prisoner's:
 - (a) release plan;
 - (b) victim's statements, if any;
 - (c) PSR or similar report;
 - (d) psychiatric/psychological reports, if any;
 - (e) conduct while in confinement; and
 - (f) any other information relevant to the inmate's reintegration into the community that the inmate, the inmate's attorney, the Department of Corrections or any other person submits.
- (2) The procedures for records, disclosure and notice outlined in Division 15 and 30 shall govern exit interviews.
- (3) A panel shall conduct the interview and the Board shall make decisions pursuant to OAR 255-30-015.

Statutory Authority: ORS 144.098, 144.125, 144.800
History: (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85; 5/19/88;
11/1/89; 4/5/90; 5/1/91, temporary; 10/15/91; 2/12/92, temporary;
4/15/92; 10/9/92, 03/14/97)

255-060-0008

Release Plans

- (1) At any time prior to release on parole or post-prison supervision, the Board shall examine the inmate's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:
 - (a) employment;
 - (b) school, or other situation (e.g., retirement income);
 - (c) verifiable residence;

- (d) a description of support services, program opportunities and treatment programs;
 - (e) prescribed medication;
 - (f) recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
 - (g) level of supervision consistent with the prisoner's risk assessment classification; and
 - (h) a restitution and compensatory fine payment schedule.
- (2) The Board may defer parole release up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification or a satisfactory plan from the Department of Corrections.
- (3) An inmate requesting an out-of-state parole waives the ninety (90) days limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.
- (4) The Board shall not defer release to post-prison supervision. The following procedure shall apply:
- (a) If the release plan the Department of Corrections or designee of Local Supervisory Authority submits at least 60 days prior to release is deficient, the Board will return it to the submitting agency with the Board's recommended modifications.
 - (b) The Department or designee of Local Supervisory Authority shall submit a revised plan to the Board not less than ten days prior to the inmate's release.
 - (c) If the Board does not accept the revised plan, the Board shall determine the provisions of the final plan prior to the prisoner's release.
- (5) One Board member shall review and approve the release plan.

Statutory Authority: ORS 144.096, 144.125, 144.185

History: (4/5/90; 5/1/91, temporary; 10/15/91; 1992 proposed change, 03/14/97)

255-060-0010

Waiver of the 90-Day Limitation; Deferral for Serious Misconduct

History: (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0012

Psychological or Psychiatric Reports

This rule does not apply to inmates whose only crimes are committed on or after November 1, 1989.

- (1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.
- (2) Pursuant to ORS 144.223, the Board may postpone the parole release date administratively and order a psychiatric/psychological evaluation of any inmate anytime prior to release.
- (3) After review of the psychiatric/psychological reports, and all other testimony information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding:
 - (a) the inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.
- (4) The Board shall not deny release on parole solely because of an inmate's present severe emotional disturbance. The Board must also find the condition constitutes a danger to the health or safety of the community.
- (5) The majority of the Board may defer a scheduled parole release date up to two years. A panel may defer a scheduled parole release date up to 18 months.
- (6) If the Board finds the inmate does not have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board shall affirm the parole release date and set parole conditions.

Statutory Authority: ORS 144.125, 144.223

History: (4/5/90; 1/13/92; 7/26/93, temporary; 10/29/93, 03/14/97)

255-060-0013

Postponement Order

Any order regarding the postponement of parole release shall be sent to the inmate and shall set forth:

- (1) the facts and specific reasons for the decision and the [individual] votes of the Board members;
- (2) notice of the right to administrative appeal pursuant to the procedures of Division 80.

Statutory Authority: ORS 144.125, 144.135, 144.335

History: (4/5/90, 03/14/97)

255-060-0014

Detainers

- (1) When an inmate has a detainer from another jurisdiction, the Department of Corrections will release the inmate to the detainer and Oregon active community supervision shall begin upon the inmate's release into the community from the holding jurisdiction, if the Oregon sentences have not expired while the prisoner is incarcerated in another jurisdiction.
- (2) If a parolee is released by the Department of Corrections to a detainer from another jurisdiction and is recommitted to the Oregon Department of Corrections, the previous parole order shall be voided.
- (3) When an inmate has a new Sentencing Guidelines commitment to the Department of Corrections' custody, the Oregon active community supervision shall begin upon the inmate's release into the community, if the sentences have not expired while the inmate is incarcerated.

Statutory Authority: ORS 144.305, 144.310
History: (4/5/90; 10/9/92, 03/14/97)

255-060-0015

Instate Parole Release Interview Procedures

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0020

Out-of-State Parole Release Hearing Procedures

An inmate in the Department of Corrections' custody who is housed in an out-of-state facility may receive a teleconference exit interview in conformance with rule 255-60-006.

Statutory Authority: ORS 144.098, 144.125
History: (2/1/79; 5/31/85; 5/19/88; 10/9/92, 03/14/97)

255-060-0025

Parole Consideration for Prisoners in a Local Jail

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0030

Exit Interview Board Review Packet

The exit interview Board Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing, if any;
- (3) psychiatric and/or psychological evaluations (previous 6 months);
- (4) correspondence;
- (5) field parole analysis report, a pre-sentence investigation report or comparable report;
- (6) court orders;
- (7) misconduct reports; and
- (8) release plan.
- (9) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.096, 144.098, 144.185

History: (5/19/88; 4/5/90, 03/14/97)

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

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

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

AMEND: OAR 255-075-0096, 0098, 0100

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.085, 144.245

SUBJECT MATTER: The Board of Parole and Post-Prison Supervision is amending its rules relative to setting a release date when parole violators are denied re-release. This amendment will conform the rules to practice and eliminate confusion or unintended early release.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rules based on the following reasons:

The current wording has caused confusion which results in unintended early releases, by causing some to believe it creates a compelled parole situation requiring release six (6) months prior to the good time date. Inmates subject to denial of re-release are being returned to the institution after having been afforded an opportunity on parole. Violations of conditions of parole supervision were such to indicate parole is not in the communities and/or inmate's best interest. Setting a firm re-release date up to two days to the good time date assures compliance with statutory provisions requiring a period of post incarceration supervision and avoids confusion with compelled parole situations.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.085, 144.245

D) *Documents Relied Upon:* N/A.

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

100-1157
100-1157

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This amended rule overall, will not have any appreciable economic effect on the Board. It will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None known.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None known.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this amendment.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this amendment.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

Prepared by: Mara C. Labrie Date: 8-14-95

Title: Chairperson

DIVISION 75

PROCEDURES FOR RESPONSES TO PAROLE AND POST-PRISON SUPERVISION CONDITIONS VIOLATIONS

255-075-0001

Definitions

History: (2/28/85; 3/14/88, temporary; 5/19/88, repealed)

255-075-0002

Suspension of Parole or Post-Prison Supervision; Citation to Appear

- (1) When the supervising officer or other person informs the Board of reasonable grounds to believe that a person has violated the conditions of parole or post-prison supervision, or that parole is no longer in the best interests of the parolee or the community, and that the revocation of parole or post-prison supervision may be justified or, in the case of parole only, an extension of parole may be justified, the Board may:
 - (a) suspend the running of the sentence and the parole or post-prison supervision term and order the offender arrested and detained pending a violation hearing; or
 - (b) issue a citation to appear at a violation hearing without first suspending parole or the post-prison supervision term or ordering detention.
- (2) One Board member may issue a suspend and detain warrant or a citation to appear at violation hearings.
- (3) The Board may authorize, in writing, that its designated representative may issue citations to appear at a violation hearing.

Statutory Authority: ORS 144.025(3), 144.106, 144.331, 144.334

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89;
4/30/92, temporary; 6/24/92, temporary; 10/9/92)

255-075-0003

Criteria for Allowing Offender to Remain in Community Pending Hearing

In determining whether to allow an offender to remain in the community pending the violation hearing and final order, the Board or the Hearings Officer may consider:

- (1) the seriousness of the allegations and the risk to the offender or the community;
- (2) the likelihood of the offender absconding or failing to appear at the hearing;
- (3) the availability of resources in the community such as residence or employment;
- (4) any recommendation by the parole and post-prison supervision officer.

- (5) The Hearings Officer may release offenders detained under a Board warrant, after the violation hearing, when recommending local sanctions or intervention and continuance of parole or post-prison supervision.

Statutory Authority: ORS 144.331(2)

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary, 10/9/92; 10/29/93)

255-075-0004

Guidelines for "Best Interest" Return

Revocation of parole or post-prison supervision, when it is not in the best interest of the offender or in the best interest of society, shall refer to the following situations:

- (1) The offender is suffering from an emotional or psychological disturbance which makes the offender dangerous to self or others if left in the community. The following behavior may indicate a dangerous emotional or psychological disturbance:
 - (a) showing a present capacity to carry out any statements or threats of violence against the offender or the community; or
 - (b) circumstances and conduct similar to that which led to the initial incarceration; or
- (2) The offender's behavior cannot be adequately controlled if left in the community.

Statutory Authority: ORS 144.270(2)(g), 144.350(2)

History: (3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0005

Hearing Requirement: Procedure

- (1) Except as otherwise provided by these rules, before the Board can revoke parole or post-prison supervision, modify conditions, or extend active parole supervision, the Board or Hearings Officer shall conduct a hearing.
- (2) The Board or Hearing Officer need not conduct a hearing when the offender waives the hearing and/or consents to the order or when the Board extends supervision for offenders whose crimes occurred on or after December 4, 1986 and before November 1, 1989 (BM10).
- (3) Except in the cases set forth in OAR 255-75-015 and section (6) of this rule, the Board or Hearings Officer shall conduct the hearing within a reasonable time after the supervising officer or other person notifies the Board or Hearings Officer of the alleged violations.
- (4) If an in-custody violation hearing and a final order cannot be accomplished within fifteen (15) days of arrest, the supervising officer or Hearings Officer shall request a non-bailable suspend and detain warrant from the Board.

- (5) Before a Hearings Officer can modify conditions or order more than 15 days of local confinement without the offender's consent, the Hearings Officer shall conduct a violation hearing. Unless the Hearings Officer recommends a sanction, which is beyond his or her authority to order, the Hearings Officer may issue a final order subject to approval of the Board, but immediately effective.
- (6) A hearing is not required when an intermediate local sanction or intervention involves local confinement of 15 days or less when the offender consents to other sanctions, interventions or conditions. If the offender contests the allegations, the offender may request a hearing.

Statutory Authority: ORS 144.106(3), 144.108, 144.331(2), 144.343, 144.350, 144.370
 History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 5/1/91, temporary; 10/15/91; 4/30/92, temporary; 10/9/92)

255-075-0006
Method of Hearing

The Hearing Officer may conduct hearings by teleconference. The Hearing Officer shall conduct person to person hearings in the following situations:

- (1) the alleged violations are contested and the offender or the offender's attorney shows that the witness's credibility, including observation of the witness's demeanor is necessary;
- (2) physical exhibits may be part of the record and viewing the exhibits is essential;
- (3) there are unusual circumstances not covered by this section, determined at the Hearing Officer's discretion.

Statutory Authority: ORS 144.035(5), 144.343(1)
 History: (11/4/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0007
Designated Representative Conducts Hearing

- (1) The Board or the Board's designated representative shall conduct the probable cause and violation hearing.
- (2) "Designated representative" shall include those persons designated by the Department of Corrections or the Board of Parole and Post-Prison Supervision as Hearings Officers.

Statutory Authority: ORS 144.104(1), 144.331, 144.343
 History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0008

Locations of Hearing

History: (11/19/84, temporary, expired)

255-075-0010

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

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0015

When Offender in Another Jurisdiction: Return

- (1) The Board may suspend parole or post-prison supervision and may order the offender's return to prison in Oregon without first conducting a hearing when:
 - (a) the offender has, without permission, left the state to which the Board released the offender on parole or post-prison supervision, and is in custody in another jurisdiction;
 - (b) the offender is in custody in another correctional facility;
 - (c) the offender has absconded from supervision and the offender's whereabouts are unknown; or
 - (d) the offender has been convicted of a new crime.
- (2) Except as provided in ORS 144.345(2) and OAR 255-75-005(6), the Board or the Hearings Officer shall conduct a violation hearing after the offender returns to prison in Oregon.

Statutory Authority: ORS 144.340, 144.345(2), 144.349

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/15/92, temporary; 4/15/92)

255-075-0020

Rights of a Parolee at a Formal Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0025

Rights at Hearing

- (1) The Board or the supervisory authority shall provide the offender a written notice of the hearing at least three (3) working days prior to the hearing.

- (2) The hearing notice shall include:
 - (a) a Notice of Rights as provided in ORS 144.343(3);
 - (b) a written statement of alleged violations; and
 - (c) any documents or evidence which form the basis of the alleged violations;
 - (d) the date and location of the hearing.
- (3) The offender may elect to waive the three working day notification period prior to the hearing and begin the hearing immediately.
- (4) The Hearings Officer shall tape record the offender's verbal statement waiving the three working day notification period.
- (5) The Hearings Officer shall ascertain whether the offender has understood the allegations and the offender's rights and whether the offender can read, hear and understand the language of the proceedings. The Hearings Officer shall postpone the hearing, if needed assistance is not readily available.

Statutory Authority: ORS 144.343(3)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0026

Waiver of Hearing

- (1) In all cases, the offender may waive the right to a hearing by signing a Notice of Rights form. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.
- (2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that the offender violated the conditions in whole or in part and that the Board, the Hearings Officer, or the supervisory authority may order intermediate local sanctions, that the Board or the Hearings Officer may order modified conditions of supervision, or that the Board may order extension of active supervision or return to prison, without further hearing.
- (3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active community supervision, the waiver of the hearing indicates acceptance of the modifications.
- (4) If the offender waives the right to a hearing, the offender may offer a written or verbal statement pertaining to the dispositional phase of the violation hearing.
- (5) The offender shall submit written waiver of the right to a hearing to the Hearings Officer within five (5) days after the waiver.

- (6) The person delivering the Notice of Rights shall tape record any statement made at the time of waiver.
- (7) If the offender waives the right to a hearing, the Hearings Officer shall submit to the Board the following:
 - (a) a Notice of Rights form;
 - (b) any written offender statements and/or a summary of oral statements;
 - (c) the Hearing Report Summary, including a history of local interventions and sanctions ordered and a recommendation regarding disposition;
 - (d) any supporting information, including the supervising officer's report and other documentary evidence submitted.

Statutory Authority: ORS 144.050, 144.140; 144.343
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 4/15/92)

255-075-0030
Board Rejection of Waiver

If the Board is not satisfied that the offender knowingly and intelligently waived his or her hearing rights or if it needs more information before making its decision, it may order a new hearing.

Statutory Authority: ORS 144.050, 144.140, 144.343
History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/9/92)

255-075-0031
Hearings Process

- (1) The Hearings Officer shall conduct the violation hearing reasonably near the place of the alleged violation or the place of confinement or may conduct the hearing by teleconference.
- (2) Unless the Hearings Officer finds good cause on the record, the parole and post-prison supervision officer shall present information and evidence at the hearing and arrange for the presence of witnesses for the state. The parole and post-prison supervision officer shall make dispositional recommendations.
- (3) The Hearings Officer shall make a tape recording of the hearing.

Statutory Authority: ORS 144.050, 144.106, 144.140, 144.343
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary, 5/19/88; 10/16/89; 10/9/92)

255-075-0035

Representation/Ability to Pay Attorney Fees

- (1) In all cases, the offender is entitled to representation by an attorney at the offender's own expense.
- (2) If the Hearings Officer deems the offender indigent, and unable to pay for an attorney, the offender may request a Board appointed attorney if the offender makes a timely and colorable claim that:
 - (a) the offender has not committed the alleged violation;
 - (b) there are substantial or complex mitigating circumstances which make revocation inappropriate even if the offender admits violation or it is a matter of record; or
 - (c) the offender appears incapable or representing himself/herself.
- (3) If the offender requests a Board appointed attorney, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. When the Board approves payment, it shall not exceed \$40 per hour and \$200 per case. The attorney shall send the Board a billing within 90 days of the violation hearing.
- (4) When the Hearings Officer refuses to appoint an attorney, the Hearings Officer shall state the grounds for refusal in the record.

Statutory Authority: ORS 144.343

History: (2/1/79; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary;
5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 10/15/91; 10/9/92)

255-075-0036

Board Subpoenas; Witness

- (1) Offenders shall make their own arrangements for calling and presenting witnesses, however, upon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Board or Hearings Officer shall, or the Board on its own motion may, issue subpoenas requiring the attendance and testimony of witnesses. In addition, the Board or the Hearings Officer may subpoena documents when relevant.
- (2) The Board shall reimburse fees and mileage as prescribed by law to witnesses appearing under subpoena, other than the parties, state officers or employees, provided the Hearing Officer certifies that the witness's testimony was relevant and material to the hearing.
- (3) The offender may present witnesses who have relevant information, and has the right to confront the persons or witnesses who have presented information against the offender.
- (4) The Hearings Officer may deny confrontation of witnesses by the offender if the Hearings Officer finds that confrontation would subject the witness to the risk of harm if the witness's identity was disclosed.

- (5) If the Hearings Officer denies confrontation of witnesses, the Hearings Officer shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Statutory Authority: ORS 144.347

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/15/92)

255-075-0040

Compelling of Witnesses: Contempt

The Board, the Hearings Officer or party requesting a subpoena, may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Statutory Authority: ORS 144.347(4)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 10/9/92)

255-075-0042

Probable Cause; Preliminary Hearing; Deferral of Revocation Hearing

- (1) The Board may use evidence received and the order of the court at the preliminary hearing or a conviction to establish that probable cause exists to believe that the offender has committed a violation of a condition of parole or post-prison supervision.
- (2) Should the offender waive the right to a preliminary hearing, the waiver shall constitute a waiver of a probable cause hearing.
- (3) When the Board defers completion of a violation hearing until the trial is over and until the court or the parole and post-prison supervision officer notifies the Board of the final disposition of the case, the Board shall use a finding of probable cause to support the Board's decision to suspend and detain an offender charged with the commission of a new crime.
- (4) Notwithstanding subsection (3) of this section, the Board shall not extend a deferral following a finding of probable cause for a period greater than 120 days from the date of the preliminary hearing or waiver, unless the offender is released from jail pending final disposition of the case.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (11/25/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/15/92)

255-075-0045

Evidence; Subpoena of Documents

- (1) The Hearings Officer may receive the following as evidence at a violation hearing:
- (a) oral testimony under oath;

- (b) affidavits or other sworn statements;
 - (c) letters;
 - (d) documents;
 - (e) reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole and post-prison supervision officers, doctors, psychologists, attorneys);
 - (f) uncertified copies of letters, documents, or reports shall be admissible in a revocation hearing if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable;
 - (g) evidence of criminal activity even when charges have been dismissed, not brought, or the offender has been acquitted at trial;
 - (h) reliable hearsay evidence; or
 - (i) any evidence determined to be material, relevant, and reliable, regardless of its nature.
- (2) Upon the request of any party to the hearing, the Board of Parole and Post-Prison Supervision, or the Hearings Officer, may issue a subpoena duces tecum upon a proper showing of relevant and reasonable scope of the documentary or physical evidence being sought. The offender shall make the offender's own arrangements for presenting evidence.
 - (3) The Hearings Officer may exclude documents or physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.
 - (4) The Hearings Officer may classify documents or physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
 - (5) The Hearings Officer shall make evidence received without disclosing the identity of the witness a sealed part of the record.
 - (6) When a witness is unavailable, the Hearings Officer may receive statements in the form of documentary evidence. The Hearings Officer shall determine at an in-camera hearing the reliability and relevance of the absent witness's statement.

Statutory Authority: ORS 144.343, 144.347

History: (2/1/79; 11/25/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0046

Postponement

- (1) With Board approval, the Hearings Officer may postpone a hearing for good cause and for a reasonable period of time, which shall not exceed 120 days.
- (2) The criteria for "good cause" includes, but is not limited to:
 - (a) the preparation of defense;
 - (b) illness or unavailability of the offender or other persons;
 - (c) gathering of additional evidence; or
 - (d) avoiding interference with an ongoing police investigation or pending prosecution.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/18/88; 10/16/89; 10/9/92)

255-075-0050

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

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0055

Reopening Hearings: Criteria; Procedure

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

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (2/1/79; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0056

Hearings Record

- (1) The hearings record shall include:
 - (a) a Hearings Report Summary;
 - (b) a written statement of alleged violations;

03/14/97

Conditions Violations

- (c) supporting materials, including documentary evidence admitted;
 - (d) a Notice of Rights;
 - (e) the Order of Parole or Post-Prison Supervision;
 - (f) a notice of time and place of hearing;
 - (g) a tape recording of the advice of rights and the hearing;
 - (h) the supervising officer's report, including recommended dispositions; and
 - (i) the history of supervision, local sanctions and modifications.
- (2) The Hearings Officer shall retain the tape recording used in subsection (1)(g) of this rule for two (2) years.

Statutory Authority: ORS 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92)

255-075-0060

Record of Parole Revocation Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0065

Ten Day Period for Offender's Evidence and Exceptions

- (1) Within a reasonable time after the hearing, the Hearings Officer shall provide his or her report to the offender.
- (2) Unless the offender waives the right to respond, the offender shall have 10 days from the date the Hearings Officer mails the report to the offender to submit evidence and make written exceptions to the report for the Board's consideration.
- (3) If the offender waives the right to respond, the Hearings Officer shall include the waiver in the Hearings Officer's report to the Board.
- (4) When a Hearings Officer makes a final order pursuant to Board authority granted in writing, the offender shall not have a ten day period within which to submit evidence and written exceptions. The offender may appeal a Hearings Officer's order under Division 80 of these rules.

Statutory Authority: ORS 144.343(7)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 10/15/91; 4/30/92, temporary; 10/9/92)

255-075-0067

Final Action: Authority

- (1) Pursuant to a letter of agreement:
 - (a) a supervising officer may order intermediate local sanctions, including a local confinement sanction not exceeding fifteen (15) days. When the supervising officer orders a local confinement sanction, the officer shall give the offender a notice of rights as provided in OAR 255-75-005(6). The supervising officer's supervisor shall review the decision to order a local confinement sanction. The supervising officer shall send a copy of the order to the Board.
 - (b) after a hearing, a Hearings Officer may order intermediate local sanctions. A local confinement sanction may not exceed thirty (30) days. The Hearings Officer shall send a copy of the final order and report to the Board and, upon request, shall send the record of the hearing as described in OAR 255-75-056. The Hearings Officer shall retain the record for two (2) years.
 - (c) after a hearing, the Board may order intermediate local sanctions. A Board ordered local confinement sanction may exceed thirty (30) days.
 - (d) the Board may override any sanction ordered by a supervising officer or Hearings Officer.

Statutory Authority: ORS 144.106, 144.343

History: (4/30/92, temporary; 10/9/92; 10/29/93)

255-075-0070

Final Action: Procedure

- (1) When a case comes before the Board for decision, the Board shall consider the Hearings Officer's report, and the offender's evidence and exceptions. The Board shall enter a decision, and shall record the individual votes of the Board members in accordance with Exhibit K and the sanction/intervention guidelines.
- (2) The Board may adopt or reject any or all the Hearings Officer's findings and recommendations. The Board may find a violation of conditions not alleged, if the documentary evidence admitted at the hearing supports the finding and the evidence is uncontroverted. The final order shall indicate the findings adopted by the Board.
- (3) A copy of the final order shall be forwarded to the offender with notice of the right to administrative and judicial review.

Statutory Authority: 144.125, 144.343

History: 2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/1/88; 10/18/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary; 10/15/91; 4/30/92, temporary; 10/9/92)

255-075-0072

Rerelease Order

- (1) At the time of a revocation decision, the Board shall make an order concerning rerelease.
- (2) In the rerelease order, the Board may:
 - (a) continue parole or post-prison supervision pursuant to 255-75-075 or 255-75-080; or
 - (b) set the rerelease date in accordance with rule 255-75-079; or
 - (c) defer the rerelease decision pending a future disposition hearing.
- (3) Upon notification that parole or post-prison supervision has terminated by operation of ORS 144.345(2), the Board shall apply subsection (2) of this rule.

Statutory Authority: ORS 144.346, 144.395

History: (4/19/89, temporary; 10/16/89; 4/15/92)

255-075-0075

Offenders Convicted of New Crime in This or Another Jurisdiction

- (1) If an offender has violated parole or post-prison supervision as a result of a conviction of a new crime and the court has ordered a prison term, parole or post-prison supervision terminates without a violation hearing by operation of ORS 144.345(2).
- (2) Upon release from custody, if the Oregon sentence has not expired, Oregon supervision shall resume either in another jurisdiction under Interstate Compact or in Oregon. If, in preparing the rerelease plan, the Department of Corrections cannot arrange supervision under Interstate Compact, the offender shall report to Oregon for supervision.
- (3) The Board shall make extradition decisions on a case-by-case basis in cooperation with the holding jurisdiction.
- (4) If the offender absconded supervision, the Board shall count the inoperative time from the date the Board issued its arrest and detention warrant to the warrant confirmation date. The Board shall forward the dates to the Department of Corrections for use in recalculating the sentence good time and expiration dates.

Statutory Authority: ORS 144.345, 144.380, 144.610-.622

History: (2/1/79; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 4/15/92)

255-075-0076

Designation of Parole Failure

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88, repealed)

255-075-0078

Commencement Date for Prison Term Following a Violation

- (1) The commencement date for a new commitment which is concurrent to an incarceration sanction for a violation of parole or post-prison supervision shall be the sentencing date for the new crime.
- (2) The commencement date for a new commitment which is consecutive to an incarceration sanction for a violation of parole or post-prison supervision shall be either the release date established for the violation or the sentencing date for the new crime, whichever is later.
- (3) Notwithstanding subsection (2) of this rule, when the new commitment is consecutive to a sanction for a violation, the full Board may treat the violation and the new commitment as if they were concurrent. If treated as concurrent, the commencement date for the new commitment shall be the sentencing date for the new crime plus adjustment for credit for time served.
- (4) If the offender is returned with a parole or post-prison supervision violation and a new sentence which is consecutive to the sentence for which the offender was on parole, the commencement date for the new conviction shall be the date parole was revoked, if so stated on the court order.

Statutory Authority: ORS 144.346, 144.395, 144.780, 144.783

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 10/9/92)

255-075-0079

Guidelines for Rerelease

- (1) For technical violation(s):
 - (a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation.
 - (b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 90 days for each return, not to exceed the total sanction days allowed in OAR 253-11-004.
- (2) For conduct constituting a crime:
 - (a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation.
 - (b) An offender sentenced to post-prison supervision who has been returned to prison may serve further incarceration of up to 180 days, not to exceed the total sanction days provided in OAR 253-11-004.
- (3) For conduct constituting a crime and resulting in automatic revocation, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.

- (4) Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.
- (5) Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.
- (6)
 - (a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest for the violation which resulted in the revocation of parole or post-prison supervision.
 - (b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) shall be the sentencing date.
 - (c) If the jailor, hearing officer, or Board releases the offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.
- (7) Offenders designated for the Department of Corrections Parole Violators Project may serve repeated incarcerations of up to 180 days.
- (8) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.
- (9) Notwithstanding subsections 1-8 of this rule, the Board may choose to postpone rerelease on parole pursuant to Divisions 50 and 60 of this chapter.
- (10) Notwithstanding subsections 1-9 of this rule, the Board may choose to deny rerelease on parole pursuant to OAR 255-75-096.
- (11) Intermediate local sanctions do not count toward the sanction limits.

Statutory Authority: ORS 144.108, 144.120(4), 144.125, 144.232, 144.345, 144.346, 144.395

History: (4/19/89, temporary; 11/1/89; 10/15/90, temporary; 1/16/91; 10/9/92; 10/29/93)

255-075-0080

Continuance on Parole or Supervision

- (1) The Board or the Hearings Officer may continue an offender on parole or post-prison supervision and order modification of conditions and/or sanction to time served.
- (2) The Board, the Hearings Officer, or the supervisory authority may continue an offender on parole or post-prison supervision and order intermediate local sanctions as limited by OAR 255-75-067 and pursuant to letters of agreement.

Statutory Authority: ORS 144.106, 144.343, 144.345(1)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary; 10/9/92)

255-075-0082

**Authority of Revocation Panel to Set New Parole Release Date
for Parole Violators**

History: (11/4/81 - 5/2/82, temporary; 11/19/84, suspended; 2/28/85, repealed)

255-075-0085

Parole Violators with No New Commitment: Action Required

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89,
suspended; 10/16/89, repealed)

255-075-0090

Guidelines for Reparole

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89,
temporary; 11/1/89, repealed)

255-075-0095

Variation From Guidelines for Aggravation/Mitigation Permitted

History: (11/19/84, temporary; 2/28/85; 5/19/88; 7/1/88; 4/19/89, suspended; 10/16/89,
repealed)

255-075-0096

Denial of Rerelease Consideration

- (1) Upon a finding of aggravation pursuant to Exhibit E or Exhibit H, the Board may deny rerelease on parole and set the parole release date up to two (2) days before the statutory good time date, or, in the case of murder or aggravated murder, require the parole violator to serve for life. This action requires the affirmative vote of a majority of members, except that if the result is life imprisonment, the full Board must vote unanimously.
- (2) Denial of rerelease on parole requires a future disposition hearing.
- (3) Cases in which the Board sets a parole violator within the guidelines set forth in rule 255-75-079 and the result requires the parole violator to serve to the end of the sentence, do not require a majority vote of all members.
- (4) At any time after denial of rerelease, the Board may adjust the parole release date to accommodate changes in the good time date.

Statutory Authority: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780, 144.783-787
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89,
temporary; 10/16/89; 5/1/91, temporary; 10/15/91, 03/14/97)

255-075-0097

Time for Future Disposition Hearing

When the Board holds a future disposition hearing pursuant to 255-75-072(2) or 255-75-096, the following timelines shall apply:

- (1) If the offender has a new conviction, the Board may schedule the future disposition hearing at the same time as the new prison term hearing.
- (2) If the offender has no new conviction or has no prison term hearing, the Board shall schedule the future disposition hearing within 60 days of return to the institution.

Statutory Authority: ORS 144.050, 144.140, 144.395
History: (4/19/89, temporary; 10/16/89; 10/9/92)

255-075-0098

Restoration of Statutory and Meritorious Goodtime

Upon recommendation of the superintendent of the institution, the Board may restore part or all of forfeited statutory and meritorious goodtime when:

- (1) there is no violation of parole; or
- (2) parole is revoked on a best interest basis and there is no actual parole violation; or
- (3) parole is revoked on a technical violation; or
- (4) parolee is within 180 days of discharge; or
- (5) parole is revoked for new criminal activity which is a misdemeanor or non person-to-person class C felony and:
 - (a) the new criminal activity was already sanctioned at the local level;
or
 - (b) the criminal activity is not of the same nature as the crimes for which the parolee was on parole.
- (6) A offender ordered to serve a term of incarceration as a sanction for a post-prison supervision violation is not eligible for earned-credit time.

Statutory Authority: ORS 421.120, 144.108(3)
History: (3/14/88, temporary; 5/19/88; 12/6/88; 10/16/89; 10/9/92, 03/14/97)

255-075-0100

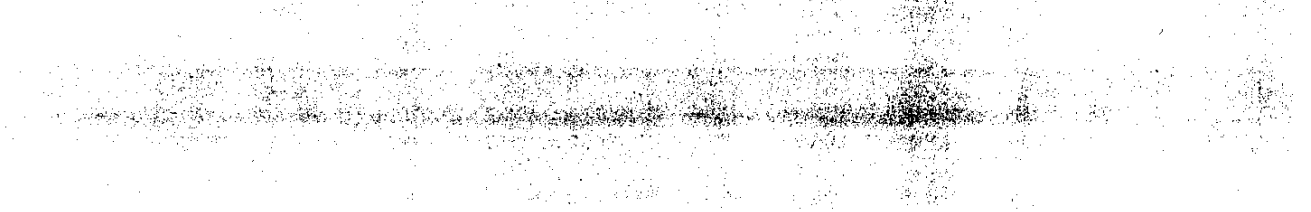
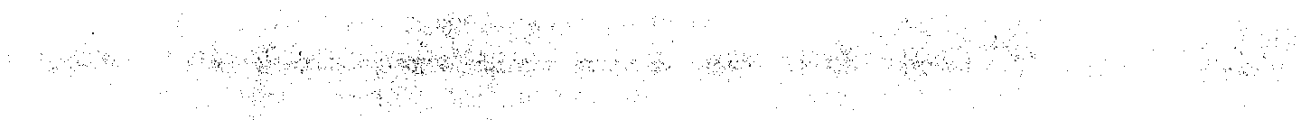
Future Disposition Hearing Packet

The Future Disposition Hearing Packet shall contain:

- (1) institution face sheet;
- (2) revocation recommendation;
- (3) final order of revocation;
- (4) administrative action sheet;
- (5) revocation hearing findings;
- (6) Board Action Form ordering parole or Board Action Form ordering post-prison supervision conditions;
- (7) disciplinary report, when extension is recommended;
- (8) recommendation regarding statutory and meritorious goodtime;
- (9) correspondence;
- (10) statements of imprisonment for violation; and
- (11) face sheet from old parole analysis report or comparable report.
- (12) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.185, 144.395

History: (5/19/88; 12/6/88; 10/16/89, 03/14/97)



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

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

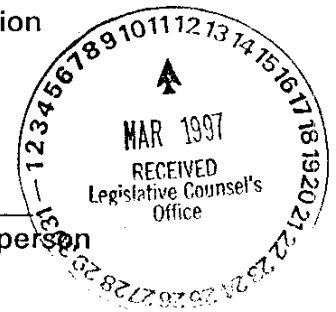
NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

AMEND: OAR 255-080-0001(2); 255-080-0005(4); 255-080-0011 ,

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.335 (1995)

SUBJECT MATTER: The new amendments clarify which Board orders are appealable in judicial courts.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rules based on the following reasons:

Senate Bill 191 (1995) provides three new kinds of Board orders and decisions that are not reviewable in judicial courts. The amendments bring the Board rules into conformity with the statute (ORS 144.335) as amended by the 1995 Legislature. The proposed amendments neither limit nor expand the Board's authority beyond that stated in the statute.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.335 (as amended 1995).

D) *Documents Relied Upon:* N/A.

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This amended rule overall, will not have any appreciable economic effect on the Board. The Board may realize nominal savings in Department of Justice appellate representation costs. It will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None known.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None known.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this amendment.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this amendment.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

Prepared by: Marva C. Fabien Date: 8-14-95

Title: Chairperson

DIVISION 80

ADMINISTRATIVE APPEAL

255-080-0001

Exhaustion of Remedies

- (1) A Board order is final and effective the date it is signed, however it is not final for purposes of the time period within which to appeal to the Court of Appeals until the inmate/offender exhausts his or her administrative review remedies.
- (2) An inmate/offender has exhausted his or her administrative remedies after complying with OAR 255-80-005, and after the Board denies review, or grants review and either denies or grants relief. The Board shall notify the inmate/offender that exhaustion has occurred and the time for judicial appeal of appealable orders shall run from the mailing date of the notice.

Statutory Authority: ORS 144.335
History: (2/20/91; 10/9/92, 03/14/97)

255-080-0005

Procedure for Administrative Review

- (1) An inmate/offender may request an administrative review by sending Exhibit O, Administrative Review Request Form, to the Board concisely explaining how his or her case fits the criteria for review listed in rule 255-80-010.
- (2) The Board must receive requests for administrative review within forty-five (45) days after the mailing date on the Board's final action on the reviewed issue.
- (3) If the Board or its designee determines that the request is consistent with the criteria as defined in rules 255-80-010 and 255-80-011, and meets the deadline requirements, the Board will resolve the matter using the procedures outlined in OAR 255-80-012.
- (4) When the Board or its designee denies review, the Board shall send the inmate/offender written notice of the specific reasons for denial.
- (5) When review is denied, the prior decision is re-affirmed.

Statutory Authority: ORS 144.335
History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88; 11/1/89; 2/20/91; 10/9/92, 03/14/97)

255-080-0010

Criteria for Granting a Review

The criteria for granting a review are:

- (1) The Board action is not supported by evidence in the record; or

03/14/97

Administrative Review

- (2) Pertinent information was available at the time of the hearing which, through no fault of the inmate/offender, was not considered; or
- (3) Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions; or
- (4) The action of the Board is inconsistent with its rules or policies and the inconsistency is not explained; or
- (5) The action of the Board is in violation of constitutional or statutory provisions or is a misinterpretation of those provisions.
- (6) The action of the Board is outside its statutory grant of discretion.

Statutory Authority: ORS 144.335, 183.482(8)

History: (2/1/79; 5/19/88; 12/6/88; 2/20/91; 10/9/92, 03/14/97)

255-080-0011

Limitations on Requests for Administrative Review

All administrative review requests will be screened by a Board member or a Board designee who may deny further review of the following matters:

- (1) Findings of aggravation when the Board has set the prison term within or below the matrix range;
- (2) Findings of aggravation when the Board has not overridden a judicial minimum and the prison term has been set equal to the judicial minimum;
- (3) Matters which have previously been appealed and decided on the merits by either the Board or the appellate court(s);
- (4) Board orders that were mailed more than 45 days prior to the request for review;
- (5) Subject matter of a hearing or review and/or Board order other than the Board order being appealed;
- (6) Matters that will not change the parole release date or conditions or length of supervision;
- (7) Board orders that are not final;
- (8) Errors previously corrected;
- (9) Order which sustains a minimum term and the inmate/offender does not contest the crime severity rating and history risk score;
- (10) Order which denies, grants or grants in part an inmate/offender's request for a prison term reduction based upon outstanding reformation under ORS 144.122;
- (11) Order which refers an inmate/offender for psychological evaluation;

03/14/97

Administrative Review

- (12) Order which postpones an inmate/offender's release date because of:
 - (a) a Board finding of dangerousness under ORS 144.125(3) and OAR 255-60-012
 - (b) an inmate/offender's refusal to submit to a psychological evaluation;
- (13) Order which postpones an inmate/offender's release date because of serious misconduct during confinement; or
- (14) Order which denies an inmate/offender's request under ORS 144.228(1) for an early parole consideration hearing.
- (15) Order which sets an initial release date under ORS 144.120, except if inmate/offender contests the crime severity rating, the history risk score or aggravating factors found by the Board under Board rules;
- (16) Order which sets a date for a parole consideration hearing under ORS 144.228;
- (17) Order which sets a release date or declines to set a release date after a parole consideration hearing under ORS 144.228.

Statutory Authority: ORS 144.335
History: (2/20/91; 10/29/93)

255-080-0012
Administrative Review Hearing Procedure

- (1) If the Board or its designee determines that the request for review is consistent with the criteria in OAR 255-80-010 and the limits of 255-80-011, the Board may open the case for review.
- (2) The Board may open a case for reconsideration of a finding without receiving a request, without regard to time limits, and without opening all findings for review and appeal.
- (3) The Board may conduct the review using the following methods:
 - (a) administrative file pass, with the number of concurring votes required by OAR 255-30-015; or
 - (b) other administrative action by the Board or its designee, e.g., to correct errors in the history risk score, crime category, credit for time served, inoperative time or adjusted commitment dates; or
 - (c) administrative hearing, in cases where review would cause an adverse result for the prisoner.

- (4) When the Board schedules an inmate/offender for an administrative review hearing and the inmate/offender has not received the Hearing Packet, the Board may proceed with the hearing, if the inmate/offender waives the right to adequate notice of the hearing and receipt of the Board Review Packet.
- (5) The Board shall send the inmate/offender written notice of the Board decision and findings.

Statutory Authority: ORS 144.335
History: (12/6/88; 2/20/91; 10/9/92)

255-080-0015
Administrative Review Hearing Packet

The Administrative Review Hearing Packet shall contain:

- (1) institution face sheet;
- (2) Board Action Form granting administrative review;
- (3) all information attached to the Board Action Form granting review;
- (4) administrative review request;
- (5) all Board Action Forms since the prison term hearing;
- (6) psychological evaluations (last 6 months);
- (7) correspondence;
- (8) field parole analysis report or comparable report;
- (9) court orders; and
- (10) Inmate's Rights and Board of Parole and Post-Prison Supervision Procedures.

Statutory History: ORS 144.130; 144.335
History: (5/19/88; 7/1/88; 12/6/88; 11/1/89; 10/9/92)

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1875

1875

FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

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

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 03-10-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on 09-01-95

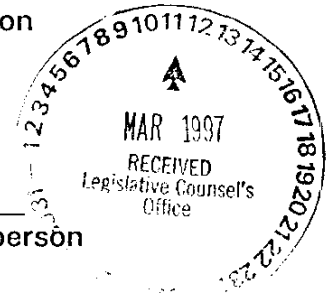
NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

ADOPT: OAR 255-94 - 0000 - 0020

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D.L. Middle
Dianne L. Middle, Chairperson



Statutory Authority: ORS 144.085

SUBJECT MATTER: This Board rules is necessary to implement Section 22 of SB 1145, ORS 144.085, which became effective July 1, 1995.

Section 22 changes the required period of active supervision and allows for automatic inactive supervision status upon completion of the active period, unless the supervising officer requests and extension from the Board.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) *Statement of Need*
of Rules of the Board of Parole and) *and Justification*
Post-Prison Supervision)

A) *Statement of Need:*

The Board of Parole & Post-Prison Supervision proposes the adoption of the above noticed rules based on the following reasons:

Implementation of Section 22, SB1145, ORS 144.085, effective July 1, 1995.

B) *Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.*

C) *Statutory Authority:* ORS 144.085

D) *Documents Relied Upon:* SB1145

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This adopted rule overall, will not have any appreciable economic effect on the Board. It will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this adoption.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this adoption.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

None.

Prepared by: Maura C. Tabiri Date: 8-14-95

Title: Chairperson

DIVISION 94

**ACTIVE AND INACTIVE PAROLE
AND POST-PRISON SUPERVISION
(ORS 144.085 AS AMENDED BY SB1145 §22, EFFECTIVE DATE 7/1/95)**

255-094-0000

Period of Active Parole or Post-Prison Supervision

- (1) The minimum periods of active parole and post-prison supervision shall be:
 - (a) six (6) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 1, 2 and 3;
 - (b) twelve (12) months for offenders whose crimes were committed on or after November 1, 1989, and whose crimes fall within sentencing guidelines crime categories 4, 5, 6, 7, 8, 9 and 10;
 - (c) for offenders whose crimes were committed after December 4, 1986, but prior to November 1, 1989, the period of active supervision shall be set by determining the equivalent sentencing guidelines crime category and applying sub-section (a) and (b) above, subject to the exceptions in section (2) below;
 - (d) for offenders whose crimes were committed prior to December 4, 1986, the Board shall apply the rules in effect at the time the crime was committed.
- (2) The following minimum periods of active parole and post-prison supervision are exceptions to section (1) of this rule:
 - (a) three (3) years for offenders sentenced as dangerous offenders under ORS 161.725 to 161.737;
 - (b) three (3) years for offenders sentenced for murder under ORS 163.115;
 - (c) three (3) years for offenders sentenced for aggravated murder under ORS 163.105;
 - (d) offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, Sex Abuse 2, and Attempts of these which occurred on or after September 29, 1991, shall serve active supervision to the expiration of the indeterminate sentence;
 - (e) offenders sentenced for Sex Abuse I or Attempted Sex Abuse I for crimes occurring on or after November 4, 1993, shall serve active supervision to the expiration of the indeterminate sentence;

- (f) offenders sentenced for Sex Abuse I or Attempted Sex Abuse I, for crimes which occurred on or after November 1, 1989, and prior to November 4, 1993, will serve active supervision in accordance with the period of post-prison supervision set by the sentencing court and the sentencing guidelines grid;
 - (g) offenders sentenced for Rape I, Sodomy I, Sexual Penetration I, Sexual Penetration 2, or Sexual Abuse I, which occurred on or after December 4, 1986, and prior to November 1, 1989, shall serve a minimum of 36 months active supervision or to expiration of the sentence which ever comes first;
 - (h) three (3) years for offenders sentenced for Robbery in the First Degree under ORS 164.415; and
 - (i) three (3) years for offenders sentenced for Arson in the First Degree under ORS 164.325.
- (3) Upon completion of the specified period of active parole or post-prison supervision, the supervisory authority shall place the offender on inactive supervision status subject to the exceptions in OAR 255-94-010, and notify the Board of the status change.
 - (4) Upon revocation of supervision and rerelease to the community, the period of active supervision shall be as provided in OAR 255-94-000(1 & 2) or to the expiration of the sentence, whichever is longer.
 - (5) After a rereleased offender has completed the minimum active supervision period as provided in OAR 255-94-000 (1)(2) and has substantially fulfilled the conditions of supervision, the supervising officer may place the offender on inactive supervision.

Statutory Authority: ORS 144.085, SB 1145 (passed in 1995 Legislative session)
History: (09/01/95, 03/14/97)

255-094-0010

Exceptions to Inactive Supervision and Return to Active Supervision

- (1) No sooner than thirty days prior to the expiration of the offender's active period of supervised parole or post-prison supervision or during a period of inactive supervision, the supervising officer or designee may send to the Board a report on offenders who have not substantially fulfilled the supervision conditions, or who have failed to complete payment of restitution. The supervising officer or designee may request continuation on active supervision, or return to active supervision if it is in the community's or the offender's best interest.

This report shall include:

- (a) an evaluation of the offender's compliance with supervision conditions;
- (b) the status of the offender's court ordered monetary obligations, including fines and restitution, if any;
- (c) the offender's employment status;
- (d) the offender's address;

03/14/97

Active & Inactive Parole& Post-Prison
Supervision

- (e) treatment program outcome;
 - (f) any new criminal activity;
 - (g) other relevant information;
 - (h) a recommendation that the Board extend the active supervision period or return the offender to active supervision.
- (2) After reviewing the report, if the Board or it's designated representative finds the offender has not substantially fulfilled the supervision conditions, or it is in the offender's or the community's best interest, the Board may order that the offender remain on active supervision or return to active supervision for the remainder of the supervision period set by the sentencing court or set by law. The Board shall send the offender notice of the continuation or return to active supervision.
 - (3) Once extended or returned to active supervision, the supervising officer may place the offender on inactive supervision when the offender has substantially fulfilled the conditions of supervision and completed restitution payments, or active supervision is no longer in the best interest of the offender and the community.
 - (4) When an offender is on inactive supervision the general and special conditions of supervision shall remain in effect with the following exceptions:
 - (a) General condition #1: Pay supervision fees (fines, restitution or other fees previously ordered by the Board remain in effect);
 - (b) General condition #5: Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.;
 - (c) General condition #7: Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency;
 - (d) Special Conditions specifically deleted by the Board.

Statutory Authority: ORS 144.085, SB1145 (passed during 1995 Legislative session).
 History: (09/01/95- Notice, 03/14/97)

255-094-0015

Return to Active Supervision

- (1) An offender is subject to arrest for violations of conditions of supervision while on either active or inactive supervision.
- (2) The Board may return an offender to active supervision when the Board receives notice of a new law violation, either misdemeanor or felony; or a report from the supervising agency showing good cause why the inactive status is no longer in the offender's best interest or the best interest or safety of the community.
- (3) If the supervising agency has good cause to return an offender to active supervision, and the whereabouts of the offender are unknown, the supervising agency may request a warrant from the Board.

03/14/97

Active & Inactive Parole& Post-Prison
Supervision

- (4) When an offender is returned to active supervision status, all general conditions plus all previously imposed special conditions shall be in effect.

Statutory Authority: ORS 144.085, SB1145 (passed during 1995 Legislative session).
History: (09/01/95 - Notice, 03/14/97)

255-094-0020

Sentence Expiration

- (1) During the pendency of violation proceedings, the running of the supervision period both active and inactive, the sentence is stayed, and the Board retains jurisdiction over the offender until the proceedings are resolved. The Board may grant credit toward the sentence for time the offender serves incarcerated pending the violation proceedings.
- (2) These rules shall not preclude more than one extension or renewal of active parole or post-prison supervision, however an extension or renewal period may not exceed the maximum sentence.
- (3) After expiration of the sentence of an offender on parole or post-prison supervision, the Board shall send written notice of the expiration to the offender and the supervisory authority.

Statutory Authority: ORS 144.085, SB1145 (passed during 1995 Legislative session).
History: (09/01/95 - Notice, 03/14/97)

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FILED

MAR 11 1997

ARCHIVES DIVISION
SECRETARY OF STATE

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

I hereby certify that the attached copy is a true, full and correct copy of permanent rule(s) adopted on 02-18-97 by the Board of Parole & Post-Prison Supervision to be effective 03-14-97.

The within matter having come before the Board of Parole & Post-Prison Supervision after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action was published in the Secretary of State's Bulletin on

09-01-95

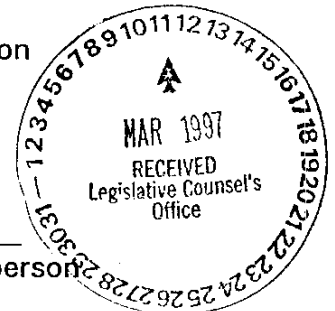
NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:

REPEAL: OAR 255-95 and Exhibit M.

as administrative rules of the Board of Parole & Post-Prison Supervision

DATED this 11th day of March, 1997.

By D L Middle
Dianne L. Middle, Chairperson



Statutory Authority: Former ORS 144.790 and SB 429 (B-E Engrossed), 68th Legislative Assembly.

SUBJECT MATTER: Repeal of the Board rule coincides with the legislative repeal of the corresponding statute.

For further information contact: Jim Eckland
Executive Director
503-945-0919

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments)
of Rules of the Board of Parole and) Statement of Need
Post-Prison Supervision) and Justification

A) Statement of Need:

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rules based on the following reasons:

The 1995 Legislature repealed ORS 144.790. Without that Statute, the Board is no longer mandated to have a rule or form for presentence investigation reports. Those responsibilities have been legislatively transferred to the Department of Corrections.

B) Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but will rely instead on comments from inmates and the public which may be received during the rulemaking process.

C) Statutory Authority: SB 429 (1995 Legislative Assembly).

D) Documents Relied Upon: Sb 429 (1995 Legislative Assembly).

8-14-95
Date

Marva C. Fabien
Marva C. Fabien, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

This rule deletion overall, will have no appreciable economic effect on the Board and will fit within the Board's 1995-97 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None known.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None known.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by this deletion.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by this deletion.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

None.

Prepared by: Maura C. Fabian Date: 8-14-95

Title: Chairperson

DIVISION 95

PRESENTENCE INVESTIGATION

[Uniform Presentence Report

255-95-005

- (1) The Board, in consultation with the Advisory Commission on Prison Terms and Parole Standards, shall propose to the Department of Corrections a uniform presentence report form.
- (2) The proposed presentence reports shall be prepared according to the format outlined in Exhibit M.]

Statutory Authority: ORS 144.790(4)

History: (2/1/79; 5/19/82; 5/31/85; 5/19/88, 03/14/97 - repealed)

EFF

S-11-98

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

RECEIVED
55 MAY 21 PM 1 47
May 11, 1998
PAROLE

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

by the OREGON BOARD OF PAROLE & POST PRISON SUPERVISION

(Department)

(Division)

MAY 11, 1998

to become effective

(Date)

The within matter having come before the OREGON BOARD OF PAROLE & POST PRISON SUPERVISION after

(Department)

(Division)

after

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

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: DECEMBER 1, 1997

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

Adopted:
(New Total Rules)

255-075-0001

Amended:
(Existing Rules)

255-05-005, 255-075-0002, 255-075-0003, 255-075-0004,
255-075-0005, 255-075-0006, 255-075-0007, 255-075-0008,
255-075-0025, 255-075-0026, 255-075-0030, 255-075-0031,
255-075-0035, 255-075-0036, 255-075-0042, 255-075-0046,

Repealed:
(Total Rules)

255-075-0055, 255-075-0056, 255-075-0065, 255-075-0067,
255-075-0070, 255-075-0072, 255-075-0078, 255-075-0079,
255-075-0080, 255-075-0098

as Administrative Rules of the OREGON BOARD OF PAROLE & POST PRISON SUPERVISION

(Department)

(Division)

DATED this 11th day of May 19 98

By: Diane M. Rea (Authorized Signer)

Title: Chairperson

Statutory Authority: ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108, 144.346

Chapter(s) Chapter 525 Oregon Laws 1997 (Enrolled SB 156) Oregon Laws 1997

House Bill(s) _____ 19 _____ Legislature; or Senate Bill(s) Enrolled SB 156 19 97 Legislature

Subject Matter: Enrolled SB 156 was signed into law on July 14, 1997, and was effective immediately. These permanent amendments will allow the Board to implement SB 156 in partnership with the Department of Corrections and Local Supervisory Authorities in a timely and efficient manner.

Further Information Contact Peggy Barber, Management Assistant Phone: 503-945-0914
(Rule Coordinator)

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

FILED MAY 11 1998 ARCHIVES DIVISION SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on May 11, 1998 (Date)

The OREGON BOARD OF PAROLE & POST PRISON SUPERVISION (Department) (Division)

become effective MAY 11, 1998 (Date)

The within matter having come before the OREGON BOARD OF PAROLE & POST PRISON SUPERVISION (Department) (Division) after

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

Notice of Intended Action published in Secretary of State's Bulletin: NO [] YES [X] Date Published: DECEMBER 1, 1997

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

- Adopted: 255-075-0001
New Total Rules)
Amended: 255-05-005, 255-075-0002, 255-075-0003, 255-075-0004, 255-075-0005, 255-075-0006, 255-075-0007, 255-075-0005, 255-075-0025, 255-075-0026, 255-075-0030, 255-075-0031, 255-075-0035, 255-075-0036, 255-075-0042, 255-075-0046, 255-075-0055, 255-075-0056, 255-075-0065, 255-075-0067, 255-075-0070, 255-075-0072, 255-075-0078, 255-075-0079, 255-075-0080, 255-075-0098
Existing Rules)
Repeated:
Total Rules Only)

Administrative Rules of the OREGON BOARD OF PAROLE & POST PRISON SUPERVISION (Department) (Division)

DATED this 11th day of May 19 98

By: Diane M. Rea (Authorized Signer) Chairperson Title:

Statutory Authority: ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108, 144.346

Chapter(s) Chapter 525 Oregon Laws 1997 (Enrolled SB 156) Oregon Laws 1997

House Bill(s) 19 Legislature; or Senate Bill(s) Enrolled SB 156 19 97 Legislature

Subject Matter: Enrolled SB 156 was signed into law on July 14, 1997, and was effective immediately. These permanent amendments will allow the Board to implement SB 156 in partnership with the Department of Corrections and Local Supervisory Authorities in a timely and efficient manner.

For Information Contact: Peggy Barber, Management Assistant Phone: 503-945-0914 (Rule Coordinator)

BEFORE THE BOARD OF PAROLE AND POST-PRISON SUPERVISION

In the Matter of the Proposed Amendments) Statement of Need
of Rules of the Board of Parole and) and Justification
Post-Prison Supervision)

A) Statement of Need:

The Board of Parole & Post-Prison Supervision proposes the amendment of the above noticed rules based on the following reasons:

SB 156 was signed into law on July 14, 1997, and was effective immediately. These amendments will allow the Board to implement SB 156 in partnership with the Department of Corrections and Local Supervisory Authorities in a timely and efficient manner.

SB 156 authorizes local supervisory authorities to completely manage the sanctioning of offenders sentenced to 12 months or less by the courts who violate conditions of their post-prison supervision. The Board has entered into letters of agreement with local supervisory authorities to allow the Board to continue its current rules and practice until November 1, 1997, to help facilitate a smooth and orderly transition. These temporary amendments will allow the full implementation of SB 156 by November 1, 1997.

The Board finds that following the permanent rulemaking process, rather than taking this temporary rulemaking action, will result in a service delay of the full implementation of SB 156 and full compliance with Oregon law.


The Board's 97-99 Legislatively Adopted Budget was reduced by \$150,600, due to the fiscal impact of SB 156 based on the premise that the volume of supervision violation hearings will be significantly reduced once SB 156 is signed into law and administrative rules are amended. Fiscally, the Board needs to implement these temporary amendments as soon as possible.

B) Explanation of Advisory Committee: The Board has chosen not to use an advisory committee that will represent the interests of persons likely to be affected by the rule, but to rely on comments from inmates and the public which may be received during the rulemaking process.

C) Statutory Authority: ORS 183.335, 144.096, 144.098, 144.102
144.106, 144.108, 144.346 & Chapter 525
Oregon Laws 1997 (Enrolled SB 156)

D) Documents Relied Upon:

14 NOV 97
Date


Dianne L. Middle, Chairperson

BOARD OF PAROLE & POST-PRISON SUPERVISION
FISCAL ANALYSIS OF RULE PURSUANT TO ORS 183

ECONOMIC EFFECT ON THE BOARD:

These amended rules overall, will not have any appreciable economic effect on the Board. It will fit within the Board's 1997-99 budget.

ECONOMIC EFFECT ON OTHER AGENCIES:

None known.

ECONOMIC EFFECT ON LOCAL GOVERNMENT:

None known.

ECONOMIC EFFECT ON IDENTIFIED PUBLIC:

The Board is unaware of any economic effect on any particular sector of the public by these amendments.

SIGNIFICANT ECONOMIC EFFECT ON BUSINESSES:

The Board is unaware of any significant economic effect on any businesses by these amendments.

REFERENCES FOR DATA AND METHODS USED REGARDING THE ABOVE:

Prepared by: Dianne L. Middle Date: 14 Nov 97
Dianne L. Middle November 14, 1997

Title: Chairperson

STATEMENT OF NEED AND EMERGENCY JUSTIFICATION

Before the

BOARD OF PAROLE AND POST-PRISON SUPERVISION

Chapter Number 255

In the Matter of the temporary amendment of } Statutory Authority, Statement of Need,
OAR 255-75 relating to Procedures for } Principal Documents Relied Upon, and
Responses to Parole and Post-Prison } Statement of Fiscal Impact
Supervision Conditions Violations

1. Citation of Statutory Authority: ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108 and 144.346. Chapter 525 Oregon Laws 1997 (Enrolled SB156)

2. Statutes Being Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, and 144.346. Chapter 525 Oregon Laws 1997 (Enrolled SB156)

3. Need for the Rules: Enrolled SB156 was signed into law on July 14, 1997, and was effective immediately. These temporary amendments will allow the Board to implement SB156 in partnership with the Department of Corrections and local supervisory authorities in a timely and efficient manner.

4. Justification for Emergency: SB156 authorizes local supervisory authorities to completely manage the sanctioning of offenders sentenced to 12 months or less by the courts who violate conditions of their post-prison supervision. The Board has entered into letters of agreement with local supervisory authorities to allow the Board to continue its current rules and practice until November 1, 1997, to help facilitate a smooth and orderly transition. These temporary amendments will allow the full implementation of SB156 by November 1, 1997.


The Board finds that following the permanent rulemaking process, rather than taking this temporary rulemaking action, will result in a serious delay of the full implementation of SB156 and full compliance with Oregon law.

The Board's 97-99 Legislatively Adopted Budget was reduced by \$150,600, due to the fiscal impact of SB156 based on the premise that the volume of supervision violation hearings will be significantly reduced once SB156 is signed into law and administrative rules are amended. Fiscally, the Board needs to implement these temporary amendments as soon as possible.

5. Documents Relied Upon: Enrolled SB156; Program Option Package #255-01 in Board's 1997-99 Legislatively Adopted Budget.

6. Fiscal and Economic Impact: The adoption of these temporary rule amendments (as well as the eventual permanent rule adoption) will enable the Board to stay within the General Fund limitation for its 1997-99 Legislatively Adopted Budget by reducing the volume of supervision violation hearings for a savings of \$150,600. No other fiscal impact is anticipated.

7. Advisory Committee: The Board and the Department of Corrections formed a workgroup of representatives from the Board, the Department and local supervisory authorities to draft these rule amendments.


Signature

14 NOV 97
Date

**BOARD BUSINESS MEETING
MAY 11, 1998**

Minutes

Members Present: Diane Rea, Michael Washington, Mike Weatherby

Staff Present: Jim Eckland, Peggy Barber

- 1) The meeting was **called to order** at 10:05 am by Chairperson Rea, and a note of attendance was made.
- 2) **Approval of OAR 255-005 and 255-075:** After review and discussion of the attached draft amendments to OAR 255-005 and OAR 255-075, the Board formally adopted the proposed rules as permanent rules and directed staff to file the rules with the Secretary of State. It was noted that these rules were filed as temporary rules on November 14, 1997, and a notice of proposed rule making was filed at the same time. No organizations or individuals requested a public hearing. Both Board staff and Department of Corrections staff forwarded comments and recommended technical amendments to the temporary rules.
- 3) **Future Board Activities:** The Board agreed to conduct Board Business Meetings at 10am on the following dates:
 - June 8, 1998
 - July 6, 1998
 - August 3, 1998

These monthly meetings will be used to adopt amendments to administrative rules and to adopt formal Board policies. The Board agreed to conduct regular work sessions on Monday mornings to discuss policy issues and proposed amendments to administrative rules.

- 4) **Adjournment:** The Board Business Meeting was adjourned at 10:45am.

Peggy Barber
Recording Secretary

Attachment

DIVISION 5

DEFINITIONS

This rule has been renumbered.

255-005-0005

Definitions

- (1) "**Abscond**": Unauthorized absence from parole or post-prison supervision.
- (2) "**Active Community Supervision**": A period of supervision in the community, requiring the supervising officer's regular contact and monitoring to assure that the supervisee complies with the conditions of parole or post-prison supervision, has committed no new crimes and has paid restitution, attorney fees, and compensatory fines, if required.
- (3) "**Active Supervision**": Supervision requiring the supervising officer's regular contact and monitoring to assure continued compliance with the general and special conditions of parole or post-prison supervision.

"Active Supervision" shall not include:
 - (a) the period of confinement in a local, state, or federal correctional facility while serving on parole or post-prison supervision;
 - (b) the period of time between the suspension of parole or post-prison supervision and the date parole or post-prison supervision is continued;
 - (c) inactive parole or inactive post-prison supervision;
 - (d) involuntary commitment to a state or federal psychiatric facility.
- (4) "**Administrative Sanction**": Local, structured, or intermediate sanctions as those terms are used in OAR 291-58-010 et al, and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.
- (5) "**Aggravation**": The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1 and E-3.
- (6) "**BAF**": A Board order after a decision called a "Board Action Form".
- (7) "**Base Range**": The range for each crime category reflected in Exhibit C under the "excellent" column.
- (8) "**Board**": Board of Parole and Post-Prison Supervision.
- (9) "**Board Review Packet**": The information the Board shall consider at the inmate's hearing. Each of the Divisions which establishes a hearing shall list the contents of the packet.
- (10) "**Compensatory Fines**": A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). The court may award compensatory fines in addition to restitution.

- (11) "**Correctional Facility**": Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order.
- "**Correctional Facility**": includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect or after a finding of guilty except for insanity.
- (12) "**Crime Severity Rating**": A classification for crimes committed prior to November 1, 1989, from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibits A-I, A-II, and A-III.
- (13) "**Crime Spree**": A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstances as to be the product of a continuous disposition or intent.
- (14) "**Date of Return**": The date another in-state or out-of-state jurisdiction physically returns the inmate to the Department of Corrections' custody following a hold.
- (15) "**De Novo Hearing**": A new initial prison term hearing, required when a court orders additional consecutive sentences for crimes which occurred prior to the first prison term hearing.
- (16) "**Escape**":
- (a) the unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;
 - (b) includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;
 - (c) does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.
- (17) "**Future Disposition Hearing**": A hearing the Board may set at its discretion for purposes of deciding whether to deny or grant re-release for a violation of parole or post-prison supervision when authorized by law.
- (18) "**Gang Member**": A person who associates with a group which identifies itself through the use of a name, unique appearance, language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity.
- (19) "**Gang-Related Activity**": Crime committed by a gang member:
- (a) with other known gang members;
 - (b) against other known gang members; or
 - (c) against a person who is not a gang member; in order to further the purposes of the gang or impress other gang members.
- (20) "**History/Risk Score**": A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B, Part I and Part II.

- (21) **"Inactive Parole and Inactive Post-Prison Supervision":** The offender remains under supervision however;
- (a) there is no direct supervision by a supervising officer and no requirement of regular reporting;
 - (b) no additional supervision fees; and
 - (c) the offender remains subject to arrest by a supervising officer for violation of conditions of supervision and return to active supervision at any time until expiration of the sentence or post-prison supervision term as outlined in Division 94.
- (22) **"In Camera Hearing":** The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.
- (23) **"Initial Parole Release Date":** The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).
- (24) **"Inmate":** Any person under the supervision of the Department of Corrections or a local supervisory authority who is not on parole, post-prison supervision or probation status (also referred to as prisoner).
- (25) **"Inoperative Time":** Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.
- (26) **"Less Than the Sum of the Terms":** An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.
- (27) **"Mail Date" or "Mailed on Date":** Is the date from which the Board calculates the timelines of receipt of Administrative Review Requests and other time sensitive responses. The date is computer generated and scheduled to insure actual mailing occurred on or before the listed date.
- (28) **"Matrix Ranges":** Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.
- (29) **"The Matrix":** A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.
- (30) **"Mitigation":** The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant to Exhibit E-2 and E-3.
- (31) **"Offender":** Any person under the supervision of the Department of Corrections or a local supervisory authority who is not presently in the custody of a correctional facility, including persons on probation, parole or post-prison supervision.
- (32) **"Parole":** Applies to offenders whose crime(s) were committed before November 1, 1989. A Board authorized conditional release from a state correctional facility into the community or to a detainer.

- (33) "**Particularly Violent or Otherwise Dangerous Criminal Conduct**": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.
- (34) "**Parole Board Record**": The file the Board maintains for each inmate/offender containing the information listed in ORS 144.185.
- (35) "**Period Under Review**": Under Division 40, the time already served on the prison term, normally the three (3) or (5) year period prior to the personal review hearing.
- (36) "**Post-Prison Supervision**": Applies to crimes committed on or after November 1, 1989. A term, as set by statute or the court under the supervision of the Department of Corrections or a correctional agency designated by the Department or a local supervisory authority.
- (37) "**Principal Range**": The range of months for the crime holding the highest crime severity rating. When the ranges are the same, the Board shall designate one range as the principal range.
- (38) "**Preponderance**": Evidence which is of greater weight or more convincing than the evidence offered in opposition to it.
- (39) "**Probable Cause**": A substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it.
- (40) "**Prison Term**": The Board established time the inmate must serve before the initial parole release date, in accordance with applicable laws and the Board's Administrative Rules.
- (41) "**Prison Term Hearing**": The hearing at which the Board establishes an inmate's prison term and initial parole release date.
- (42) "**Revocation**": An action by a Sanction Authority to terminate an offender's parole or post-prison supervision. Sanction Authority may resume an offender's parole or post-prison supervision following the act of revocation.
- (43) "**Revocation Hearing**": A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and whether the Hearings Officer should recommend that the parolee or offender return to custody or continue on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)
- (44) "**Sanction Authority**": Means the Board for felony offenders sentenced by the court for crimes occurring before November 1, 1989, or sentenced to more than 12 months in the custody of the Department of Corrections or sentenced to 12 months or less and have additional sentences of greater than 12 months; and the Local Supervisory Authority for felony offenders sentenced by the court to 12 months or less.
- (45) "**Serious Physical Injury**": Any physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.
- (46) "**Stranger**": A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.

- (47) "**Subcategory**": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).
- (48) "**Subordinate Range**": Any range less than or equal to the principal range.
- (49) "**Subpoena Duces Tecum**": A subpoena requiring the party to appear at a hearing with a document or piece of evidence to be examined at the hearing.
- (50) "**Summing the Ranges**": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-35-021.
- (51) "**Supervising Officer**": Parole and post-prison supervision officer.
- (52) "**Supervisory Authority**": The state or local corrections agency or official designated in each county by that county's Board of County Commissioners or County Court to operate correction supervision services, custodial facilities, or both (per ORS 144.087(1)).
- (53) "**Unauthorized Absence**": Time spent outside a state correctional facility without Department of Corrections' or local supervisory_authority's authorization, whether it is an escape or an unauthorized departure.
- (54) "**Unified Range**": The total range computed under OAR 255-35-021 for consecutive sentences.
- (55) "**Unsum the Ranges**": To establish a matrix range at less than the unified range. The effect of unsumming is treatment of one or more ranges as if concurrent.
- (56) "**Variations**": The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.
- (57) "**Victim**": The actual victim, a representative selected by the victim, the victim's next of kin or, in the case of abuse or corpse in any degree, an appropriate member of the immediate family of the decedent (Per ORS 144.120(7)).
The person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse or corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor (Per ORS 131.007).

Statutory Authority: ORS 144.050, 144.140

History: (5/19/88; 12/6/88; 11/1/89; 10/5/90; 10/15/91; 10/9/92, 03/14/97,
Temporary 11/14/97; 05/11/98)

DIVISION 75

**PROCEDURES FOR RESPONSES TO PAROLE AND POST-PRISON
SUPERVISION CONDITIONS VIOLATIONS FOR
OFFENDERS UNDER THE JURISDICTION OF THE BOARD OF PAROLE AND
POST-PRISON SUPERVISION OR LOCAL SUPERVISORY AUTHORITY**

255-075-0001

Definitions

- (1) Administrative Sanction means local, structured, or intermediate sanctions as those terms are used in OAR 291-58-010 etal, and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.
- (2) Sanction Authority means:
- (a) The Board or its designee for:
- (1) Any felony offender who received a sentence of more than twelve (12) months in the custody of the Department of Corrections; or
- (1) Any felony offender who received a sentence of twelve (12) months or less but who also has an additional sentence(s) of greater than twelve (12) months.
- (A) If an offender is on post-prison supervision for multiple sentences which include a sentence that exceeds twelve (12) months ("Board case") and a less than twelve (12)-month sentence ("Local Supervisory Authority case"), the Board will maintain jurisdiction of the post-prison supervision of the Local Supervisory Authority case until the Board's active involvement in the Board case(s) expires. Following expiration of the Board's case(s), the Board will maintain jurisdiction over the post-prison supervision of the Local Supervisory Authority case(s) up to sixty (60) days following expiration of the Board case, or until the Local Supervisory Authority petitions to assume jurisdiction, whichever comes first. Jurisdiction will fall under the Local Supervisory Authority at that point.
- (B) If the Board issued the order of post-prison supervision for an offender whose only sentence was twelve (12) months or less, jurisdiction will remain with the Board until petition by the Supervisory Authority to assume jurisdiction or upon re-release following revocation of the post-prison supervision for that sentence; whichever comes first.
- (b) The Local Supervisory Authority or its designee for any felony offender whose crime was committed after November 1, 1989, was sentenced by the court to twelve (12) months or less, and who does not have an additional sentence of more than twelve (12) months for a felony.

Statutory Authority: ORS 144.140
History: (2/28/85; 3/14/88, temporary; 5/19/88, repealed, temporary 11/14/97;
05/11/98)

05/11/98

Conditions Violations

255-075-0002

Suspension of Parole or Post-Prison Supervision; Citation to Appear

- (1) When the supervising officer or other person informs the Sanction Authority of reasonable grounds to believe that a person has violated the conditions of parole or post-prison supervision, or that supervision is no longer in the best interests of the offender or the community, and that the revocation of parole or post-prison supervision may be justified or, in the case of parole only, an extension of parole may be justified, the Sanction Authority may:
 - (a) suspend the running of the sentence and the parole or post-prison supervision term and order the offender arrested and detained pending a violation hearing; or
 - (b) issue a citation to appear at a violation hearing without first suspending parole or the post-prison supervision term or ordering detention.
- (2) The Sanction Authority may issue a suspend and detain warrant or a citation to appear at a violation hearing.
- (3) The Sanction Authority may authorize, in writing, that its designated representative may issue citations to appear at a violation hearing.

Statutory Authority: ORS 144.025(3), 144.106, 144.331, 144.334

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary; 6/24/92, temporary; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0003

Criteria for Allowing Offender to Remain in Community Pending Hearing

In determining whether to allow an offender to remain in the community pending the violation hearing and final order, the Sanction Authority may consider:

- (1) the seriousness of the allegations and the risk to the offender or the community;
- (2) the likelihood of the offender absconding or failing to appear at the hearing;
- (3) the availability of resources in the community such as residence or employment;
- (4) any recommendation by the parole and post-prison supervision officer.
- (5) The Sanction Authority may release offenders detained under a Sanction Authority warrant, after the violation hearing, when recommending local sanctions or intervention and continuance of parole or post-prison supervision.

Statutory Authority: ORS 144.331(2)

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary, 10/9/92; 10/29/93, temporary 11/14/97; 05/11/98)

255-075-0004

Guidelines for "Best Interest" Return

When the Sanction Authority determines that an offender's release on parole or post-prison supervision is not in the best interest of the offender or in the best interest of society, the Sanction Authority may return the offender to custody. This type of return to custody may apply when:

- (1) The offender is suffering from an emotional or psychological disturbance which makes the offender dangerous to self or others if left in the community. The following behavior may indicate a dangerous emotional or psychological disturbance:
 - (a) showing a present capacity to carry out any statements or threats of violence against the offender or the community; or
 - (b) circumstances and conduct similar to that which led to the initial incarceration; or
- (2) The offender's behavior cannot be adequately controlled if left in the community.
- (3) Best interest returns for offenders on post-prison supervision shall not exceed 90 days, and must be approved by the Sanction Authority.

Statutory Authority: ORS 144.270(2)(g), 144.350(2)

History: (3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97;
05/11/98)

255-075-0005

Hearing Requirement: Procedure

- (1) Except as otherwise provided by these rules, before the Board can revoke parole or extend active parole supervision for offenders whose crimes occurred on or after December 4, 1986, and before November 1, 1989 (BM10), the Board or Hearings Officer shall conduct a hearing.
- (2) When the offender waives the hearing and/or consents to the order, the Board need not conduct a hearing when the Board extends supervision for offenders whose crimes occurred on or after December 4, 1986 and before November 1, 1989 (BM10).
- (3) Except in the cases set forth in OAR 255-075-0015 and section (6) of this rule, the Sanction Authority shall impose administrative sanctions or shall initiate a hearing within fifteen (15) days of arrest or detention for the violation of parole or post-prison supervision conditions.
- (4) If an in-custody violation hearing and a final order cannot be accomplished within fifteen (15) days, a supervising officer or Hearings Officer shall request a non-bailable suspend and detain warrant from the Sanction Authority

- (5) Before a Hearings Officer can order more than sixty (60) days of local confinement without the offender's consent, the Hearings Officer shall conduct a violation hearing. Unless the Hearings Officer recommends a sanction, which is beyond his or her authority to order, the Hearings Officer may issue a final order subject to approval of the Sanction Authority, but immediately effective. If the recommended sanction exceeds sixty (60) days, it must be approved by the Supervisory Authority.
- (6) A hearing is not required when an administrative sanction or intervention involves local confinement of ninety (90) days or less when the offender consents to the sanctions or interventions. If the offender contests the allegations, the offender may request a hearing.

Statutory Authority: ORS 144.106(3), 144.108, 144.331(2), 144.343, 144.350, 144.370
History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 5/1/91, temporary; 10/15/91; 4/30/92, temporary; 10/9/92 temporary 11/14/97; 05/11/98)

255-075-0006

Method of Hearing

The Hearing Officer may conduct hearings by teleconference or video conference. The Hearing Officer shall conduct hearings in person or by video conference in the following situations:

- (1) the alleged violations are contested and the offender or the offender's attorney shows that the witness's credibility, including observation of the witness's demeanor is necessary;
- (2) physical exhibits may be part of the record and viewing the exhibits is essential, and the exhibits can not be viewed in some other manner;
- (3) there are unusual circumstances not covered by this section, determined at the Hearing Officer's discretion.

Statutory Authority: ORS 144.035(5), 144.343(1)
History: (11/4/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0007

Designated Representative Conducts Hearing

- (1) The Sanction Authority or its designated representative shall conduct the probable cause and violation hearing.
- (2) "Designated representative" shall include those persons designated by the Sanction Authority, and trained and certified as Hearings Officers.

Statutory Authority: ORS 144.104(1), 144.331, 144.343
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0008

Locations of Hearing

History: (11/19/84, temporary, expired)

255-075-0010

Board Action Upon Notification of Alleged Parole Violation:

Criteria for; Release of Parolee Pending Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0015

When Offender in Another Jurisdiction: Return

- (1) The Sanction Authority may suspend parole or post-prison supervision and may order the offender's return to custody in Oregon without first conducting a hearing when:
 - (a) the offender has, without permission, left the state to which the Sanction Authority released the offender on parole or post-prison supervision, and is in custody in another jurisdiction;
 - (b) the offender is in custody in another correctional facility;
 - (c) the offender has absconded from supervision and the offender's whereabouts are unknown; or
 - (d) the offender has been convicted of a new crime.
- (2) Except as provided in ORS 144.345(2) and OAR 255-075-0005(6), the Sanction Authority or the Hearings Officer shall conduct a violation hearing after the offender returns to custody in Oregon. For purposes of these rules, the arrest date is the date the offender is returned to custody in Oregon.

Statutory Authority: ORS 144.340, 144.345(2), 144.349

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/15/92, temporary; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0020

Rights of a Parolee at a Formal Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0025

Rights at Hearing

- (1) The designee of the Sanction Authority (eg. Hearings Officer) shall provide the offender a written notice of the hearing at least three (3) working days prior to the hearing.
- (2) The hearing notice shall include:
 - (a) a Notice of Rights as provided in ORS 144.343(3);
 - (b) a written statement of alleged violations; [and]
 - (c) any documents or evidence which form the basis of the alleged violations; and
 - (d) the date and location of the hearing.
- (3) The offender may elect to waive the three working day notification period prior to the hearing and begin the hearing immediately.
- (4) If the offender elects to waive the three working day notification period, the Hearings Officer shall obtain a written waiver or tape record the offender's verbal statement waiving the three working day notification period.
- (5) The Hearings Officer shall ascertain whether the offender has understood the allegations and the offender's rights and whether the offender can read, hear and understand the language of the proceedings. The Hearings Officer shall postpone the hearing if needed assistance is not readily available.

Statutory Authority: ORS 144.343(3)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; **05/11/98**)

255-075-0026

Waiver of Hearing

- (1) In all cases, the offender may waive the right to a hearing by signing a Notice of Rights form. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.
- (2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that the offender violated the conditions in whole or in part and that the Sanction Authority may order local sanctions, may modify conditions of supervision, may extend active supervision or that the Board may order return to prison, without further hearing.
- (3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active supervision, the waiver of the hearing indicates acceptance of the modifications.
- (4) If the offender waives the right to a hearing, the offender may offer a written or verbal statement pertaining to the dispositional phase of the violation hearing.

05/11/98

Conditions Violations

- (5) If the hearing is conducted via teleconference or video conference, the offender shall submit written waiver of the right to a hearing to the Hearings Officer within five (5) days after the waiver.
- (6) The person delivering the Notice of Rights shall tape record or document in writing any statement made at the time of waiver.
- (7) If the offender waives the right to a hearing, the Hearings Officer or Supervising Officer shall submit to the Sanction Authority the following:
 - (a) a Notice of Rights form;
 - (b) any written offender statements and/or a summary of oral statements;
 - (c) the Hearing Summary, including a history of local interventions and sanctions ordered and a recommendation regarding disposition;
 - (d) any supporting information, including the supervising officer's report and other documentary evidence submitted.

Statutory Authority: ORS 144.050, 144.140; 144.343
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 4/15/92, temporary 11/14/97; **05/11/98**)

255-075-0030
Rejection of Waiver

If the Sanction Authority is not satisfied that the offender knowingly and intelligently waived his or her hearing rights or if it needs more information before making its decision, it may order a new hearing, to be conducted by the Hearings Officer or the Sanction Authority.

Statutory Authority: ORS 144.050, 144.140, 144.343
History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/9/92, temporary 11/14/97; **05/11/98**)

255-075-0031
Hearings Process

- (1) The Hearings Officer shall conduct the violation hearing reasonably near the place of the alleged violation or the place of confinement or may conduct the hearing by teleconference or video conference.
- (2) Unless the Hearings Officer finds good cause on the record, the parole and post-prison supervision officer shall present information and evidence at the hearing and arrange for the presence of witnesses for the state. The parole and post-prison supervision officer shall make dispositional recommendations.

- (3) The Hearings Officer shall make a tape recording of the hearing.

Statutory Authority: ORS 144.050, 144.106, 144.140, 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary, 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0035

Representation/Ability to Pay Attorney Fees

- (1) In all cases, the offender is entitled to representation by an attorney at the offender's own expense.
- (2) For Board cases only, if the Hearings Officer or the Board deems the offender indigent, and unable to pay for an attorney, the offender is entitled to a Board appointed attorney if the Board or Hearings Officer further finds that the offender has made a timely and colorable claim that:
- (a) the offender has not committed the alleged violation;
 - (b) there are substantial or complex mitigating circumstances which make revocation inappropriate even if the offender admits violation or it is a matter of record; or
 - (c) the offender appears incapable or representing himself/herself.
- (3) For Board cases only, if the Hearings Officer appoints an attorney, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. When the Board approves payment for a Board appointed attorney, it shall not exceed \$40 per hour and \$200 per case. The attorney shall send the Board a billing within 90 days of the violation hearing.
- (4) When the Hearings Officer or Board refuses to appoint an attorney, the Hearings Officer or Board shall state the grounds for refusal in the record.
- (5) For Local Supervisory Authority cases, the Local Supervisory Authority may set its own criteria for appointment of an attorney and shall set its own standards for payment of appointed attorneys.

Statutory Authority: ORS 144.343

History: (2/1/79; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 10/15/91; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0036

Subpoenas; Witnesses

- (1) Offenders shall make their own arrangements for calling and presenting witnesses. However, upon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Sanction Authority or

Hearings Officer shall issue subpoenas requiring the attendance and testimony of witnesses. In addition, the Sanction Authority or the Hearings Officer may subpoena documents when relevant.

- (2) The Board shall reimburse fees and mileage as prescribed by law to witnesses appearing under subpoena, other than the parties, state officers or employees, provided the Hearing Officer or Sanction Authority certifies that the witness's testimony was relevant and material to the hearing.
- (3) The offender may present witnesses who have relevant information, and has the right to confront the persons or witnesses who have presented information against the offender.
- (4) The Hearings Officer or Sanction Authority may deny confrontation of witnesses by the offender if that confrontation would subject the witness to the risk of harm.
- (5) If the Hearings Officer or Sanction Authority denies confrontation of witnesses, the Hearings Officer or Sanction Authority shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Statutory Authority: ORS 144.347

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0040

Compelling of Witnesses: Contempt

The Sanction Authority or Hearings Officer or party requesting a subpoena, may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Statutory Authority: ORS 144.347(4)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 10/9/92; 05/11/98)

255-075-0042

Probable Cause; Preliminary Hearing; Deferral of Revocation Hearing

- (1) The Sanction Authority or Hearings Officer may use evidence received and the order of a court at a preliminary hearing or a conviction or other reliable, relevant information to establish that probable cause exists to believe that the offender has committed a violation of a condition of parole or post-prison supervision.
- (2) Should the offender waive the right to a preliminary hearing, the waiver shall constitute a waiver of a probable cause hearing.
- (3) When the Sanction Authority or Hearings Officer defers completion of a violation hearing until a trial is over and until the court or the parole and post-prison supervision officer notifies the Sanction Authority or Hearings Officer of the final disposition of the case, the Sanction Authority or Hearings Officer shall use a finding of probable cause to support the decision to suspend and detain an offender charged with the commission of a new crime.

- (4) Notwithstanding subsection (3) of this section, the Sanction Authority or Hearings Officer shall not extend a deferral following a finding of probable cause for a period greater than 120 days from the date of the preliminary hearing or waiver, unless the offender is released from jail pending final disposition of the case, or waives in writing further delay. Subsequent waivers shall not extend beyond 120 days.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (11/25/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/15/92, temporary 11/14/97; **05/11/98**)

255-075-0045

Evidence; Subpoena of Documents

- (1) The Sanction Authority or Hearings Officer may receive the following as evidence at a violation hearing:
- (a) oral testimony under oath;
 - (b) affidavits or other sworn statements;
 - (c) letters;
 - (d) documents;
 - (e) reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole and post-prison supervision officers, doctors, psychologists, attorneys);
 - (f) uncertified copies of letters, documents, or reports shall be admissible in a revocation hearing if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable;
 - (g) evidence of criminal activity even when charges have been dismissed, not brought, or the offender has been acquitted at trial;
 - (h) reliable hearsay evidence; or
 - (i) any evidence determined to be material, relevant, and reliable, regardless of its nature.
- (2) Upon the request of any party to the hearing, the Sanction Authority, or Hearings Officer, may issue a subpoena duces tecum upon a proper showing of relevant and reasonable scope of the documentary or physical evidence being sought. Otherwise, the offender shall make the offender's own arrangements for presenting evidence.
- (3) The Sanction Authority or Hearings Officer may exclude documents or physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.

- (4) The Sanction Authority or Hearings Officer may classify documents or physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
- (5) The Sanction Authority or Hearings Officer shall make evidence received without disclosing the identity of the witness a sealed part of the record.
- (6) When a witness is unavailable, the Sanction Authority or Hearings Officer may receive statements in the form of documentary evidence. The Sanction Authority or Hearings Officer shall determine at an in-camera hearing the reliability and relevance of the absent witness's statement.

Statutory Authority: ORS 144.343, 144.347

History: (2/1/79; 11/25/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92; **05/11/98**)

255-075-0046

Postponement

- (1) The Sanction Authority or Hearings Officer with Sanction Authority approval, may postpone a hearing for good cause and for a reasonable period of time, which shall not exceed 120 days.
- (2) The criteria for "good cause" includes, but is not limited to:
 - (a) the preparation of defense;
 - (b) illness or unavailability of the offender or other persons;
 - (c) gathering of additional evidence; or
 - (d) avoiding interference with an ongoing police investigation or pending prosecution.
- (3) The Sanction Authority, or Hearings Officer with Sanction Authority approval, may make a finding of a violation and defer disposition for a reasonable time which may exceed 120 days if such delay is reasonably necessary for the offender, the Sanction Authority or Hearings Officer to obtain information relevant to disposition decision.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/18/88; 10/16/89; 10/9/92, temporary 11/14/97; **05/11/98**)

255-075-0050

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

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0055

Reopening Hearings: Criteria; Procedure

- (1) After the completion of a violation hearing, the Sanction Authority or Hearings Officer may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.
- (2) The Sanction Authority or Hearings Officer shall send the offender notice of the decision to reopen the hearing and the new information to be considered. The re-opened hearing shall conform to the procedures of this Division.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (2/1/79; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0056

Hearings Record

- (1) The hearings record shall include:
 - (a) a Hearings Report Summary;
 - (b) a written statement of alleged violations;
 - (c) supporting materials, including documentary evidence admitted;
 - (d) a signed Notice of Rights;
 - (e) the Order of Parole or Post-Prison Supervision;
 - (f) a notice of time and place of hearing;
 - (g) a tape recording of the advice of rights and the hearing;
 - (h) the supervising officer's report, including recommended dispositions; [and]
 - (i) the history of supervision, local sanctions and modifications; and
 - (j) if any, the written waiver of the offender's right to three working days notice of the hearing.
- (2) The Hearings Officer shall retain the tape recording used in subsection (1)(g) of this rule for two (2) years.

Statutory Authority: ORS 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0060

Record of Parole Revocation Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0065

Ten Day Period for Offender's Evidence and Exceptions

- (1) Within a reasonable time after the hearing, the Hearings Officer shall provide his or her report to the offender.
- (2) Unless the offender waives the right to respond, the offender shall have 10 days from the date the Hearings Officer mails the report to the offender to submit evidence and make written exceptions to the report for the Sanction Authority's consideration.
- (3) If the offender waives the right to respond, the Hearings Officer shall include the waiver in the Hearings Officer's report to the Sanction Authority.
- (4) When a Hearings Officer makes a final order pursuant to Board authority granted in writing, the offender shall not have a ten day period within which to submit evidence and written exceptions. The offender may appeal a Hearings Officer's order under Division 80 of these rules.

Statutory Authority: ORS 144.343(7)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 10/15/91; 4/30/92, temporary; 10/9/92, temporary 11/14/97; **05/11/98**)

255-075-0067

Final Action: Authority to Impose Administrative (Local) Sanctions, Revoke Supervision or Modify Conditions of Supervision

- 1) If an offender waives a hearing after receipt and review of the notice of rights, as provided in OAR 255-075-0005(6) a supervising officer may order administrative sanctions, including a local confinement sanction not exceeding thirty (30) days. The Local Supervisory Authority's designee may review the decision to order a local confinement sanction if the offender's underlying sentence was for 12 months or less. The Board may review the decision if the underlying sentence was more than 12 months.
- 2) After a hearing, or if an offender waives a hearing after receipt of the notice of rights, as provided in OAR 255-075-0005(6), a Hearings Officer or agency designee may order administrative sanctions, including a local confinement sanction not exceeding sixty (60) days. The Hearings Officer or agency designee shall send a copy of the final order and report to the Sanction Authority and, upon request, shall send the record of the hearing as described in OAR 255-075-0056. The Hearings Officer or agency designee shall retain the record for two (2) years.

- 3) After a hearing, or waiver, the Board may order administrative sanctions for offenders originally sentenced to more than 12 months, and a Local Supervisory Authority designee may order administrative sanctions for offenders originally sentenced to 12 months or less. The Board or a Local Supervisory Authority designee ordered local administrative confinement sanction may not exceed ninety (90) days.
- 4) The Board (for offenders originally sentenced to more than 12 months) or the Local Supervisory Authority designee (for offenders originally sentenced to 12 months or less) may override any sanction ordered by a supervising officer, agency designee or Hearings Officer.
- 5) Administrative Sanctions, including local confinement shall be applied in accordance with the Department of Corrections rules for structured, intermediate sanctions, OAR 291-58-010 et al., subject to jointly drafted revisions by the Department of Corrections and the Board.
- 6) If an administrative sanction is not sufficient to address the violation or to protect the public, the Sanction Authority may revoke supervision for a period(s) as set out in OAR 213-075-0079, or deny re-release for offenders on parole.
- 7) Conditions of supervision may be modified at any time by the Sanction Authority when necessary for the offender or public safety. If an offender objects to the modification, administrative review must be made within 45 days of the mailing date on the Board order or receipt of a written order by the Local Supervisory Authority.

Statutory Authority: ORS 144.106, 144.343

History: (4/30/92, temporary; 10/9/92; 10/29/93, temporary 11/14/97; 05/11/98)

255-075-0070

Final Action: Procedure

- (1) When a case comes before the Board or Supervisory Authority or designee for decision, the Board or Supervisory Authority shall consider the Hearings Officer's report, and the offender's evidence and exceptions. The Board or Supervisory Authority or designee shall enter a decision, and shall record the decision in accordance with the sanction/intervention guidelines, OAR 291-58-010 et al. The Board shall vote in accordance with Exhibit K.
- (2) The Board or Supervisory Authority may adopt or reject any or all the Hearings Officer's findings and recommendations. The Board or Supervisory Authority may find a violation of conditions not alleged, if the evidence admitted at the hearing supports the finding and the evidence is uncontroverted. The final order shall indicate the findings adopted by the Board or Supervisory Authority.
- (3) A copy of the final order shall be forwarded to the offender with notice of the right to administrative and judicial review.

- (4) All final orders of the Board are subject to Administrative Review by the Board prior to seeking judicial review.

Statutory Authority: 144.125, 144.343

History: 2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
7/1/88; 10/18/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary;
10/15/91; 4/30/92, temporary; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0072

Re-release Order After Revocation

- (1) At the time of a revocation decision, the Sanction Authority shall make an order concerning re-release.
- (2) In the re-release order, the Sanction Authority may:
- (a) continue parole or post-prison supervision pursuant to 255-075-0075 or 255-075-0080; or
 - (b) set the re-release date in accordance with rule 255-075-0079; or
 - (c) The Board may defer the re-release decision pending a future disposition hearing for offenders on parole.
- (3) Upon notification that parole or post-prison supervision has terminated by operation of ORS 144.345(2), the Board shall apply subsection (2) of this rule.
- (4) Revocation of post-prison supervision stops the period of post-prison supervision from running while the offender is serving time in custody for a revocation sanction. The re-release order following a revocation sanction shall include a re-calculation of the post-prison supervision expiration date to account for the time the offender was in custody serving the revocation sanction.

Statutory Authority: ORS 144.346, 144.395

History: (4/19/89, temporary; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0075

Offenders Convicted of New Crime in This or Another Jurisdiction

- (1) If an offender has violated parole or post-prison supervision as a result of a conviction of a new crime and the court has ordered a prison term to the Department of Corrections, parole or post-prison supervision terminates without a violation hearing by operation of ORS 144.345(2).
- (2) Upon release from custody, if the Oregon sentence has not expired, Oregon supervision shall resume either in another jurisdiction under Interstate Compact or in Oregon. If, in preparing the re-release plan, the Department of Corrections cannot arrange supervision under Interstate Compact, the offender shall report to the appropriate Supervisory Authority for supervision.

- (3) The Sanction Authority shall make extradition decisions on a case-by-case basis in cooperation with the holding jurisdiction.
- (4) If the offender absconded supervision, the Sanction Authority shall count the inoperative time from the date the Sanction Authority issued its arrest and detention warrant to the arrest date in Oregon or if arrested out of state, upon return to Oregon custody. The Board shall forward the dates to the Department of Corrections for use in recalculating the sentence good time and expiration dates for those offenders under the Board's jurisdiction. For those not under the Board's authority, the inoperative time shall be calculated by the Supervisory Authority's designee.

Statutory Authority: ORS 144.345, 144.380, 144.610-.622
History: (2/1/79; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0076

Designation of Parole Failure

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88, repealed)

255-075-0078

Commencement Date for Prison Term Following a Violation

- (1) The commencement date for a new commitment which is concurrent to an incarceration sanction for a violation of parole or post-prison supervision shall be the sentencing date for the new crime.
- (2) The commencement date for a new commitment which is consecutive to an incarceration sanction for a violation of parole or post-prison supervision shall be either the release date established for the violation or the sentencing date for the new crime, whichever is later.
- (3) Notwithstanding subsection (2) of this rule, when the new commitment is consecutive to a sanction for a violation, the Sanction Authority may treat the violation and the new commitment as if they were concurrent. If treated as concurrent, the commencement date for the new commitment shall be the sentencing date for the new crime plus adjustment for credit for time served.
- (4) If the offender is returned with a parole or post-prison supervision violation and a new sentence which is consecutive to the sentence for which the offender was on parole, the commencement date for the new conviction shall be the date parole was revoked, if so stated on the court order.

Statutory Authority: ORS 144.346, 144.395, 144.780, 144.783
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0079

Guidelines for Re-release

- (1) For technical violation(s):
 - (a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation.
 - (b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 90 days for each return, not to exceed the total revocation sanction days allowed in OAR 213-11-004.
- (2) For conduct constituting a crime:
 - (a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation.
 - (b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 180 days, not to exceed the total revocation sanction days provided in OAR 213-11-004.
- (3) For conduct constituting a crime and resulting in automatic revocation to the Department of Corrections, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.
- (4) Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.
- (5) Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.
- (6)
 - (a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest or return to Oregon custody if arrested out of state for the violation which resulted in the revocation of parole or post-prison supervision.
 - (b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) shall be the sentencing date, if no further action is taken by the Board.
 - (c) If the jailer, hearing officer, or Board releases the offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.
- (7) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.
- (8) Notwithstanding subsections 1-7 of this rule, the Board may choose to postpone re-release on parole pursuant to Divisions 50 and 60 of this chapter.

(9) Notwithstanding subsections 1-8 of this rule, the Board may choose to deny re-release on parole pursuant to OAR 255-075-0096.

(10) Administrative sanctions do not count toward the revocation sanction limits.

Statutory Authority: ORS 144.108, 144.120(4), 144.125, 144.232, 144.345, 144.346, 144.395

History: (4/19/89, temporary; 11/1/89; 10/15/90, temporary; 1/16/91; 10/9/92; 10/29/93, temporary 11/14/97; 05/11/98)

255-075-0080

Continuance on Parole or Supervision

(1) The Sanction Authority may continue an offender on parole or post-prison supervision and order modification of conditions and/or sanction to time served.

(2) The Sanction Authority may continue an offender on parole or post-prison supervision and order administrative sanctions as limited by OAR 255-075-0067

Statutory Authority: ORS 144.106, 144.343, 144.345(1)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0082

Authority of Revocation Panel to Set New Parole Release Date for Parole Violators

History: (11/4/81 - 5/2/82, temporary; 11/19/84, suspended; 2/28/85, repealed)

255-075-0085

Parole Violators with No New Commitment; Action Required

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, suspended; 10/16/89, repealed)

255-075-0090

Guidelines for Reparole

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 11/1/89, repealed)

255-075-0095

Variation From Guidelines for Aggravation/Mitigation Permitted

History: (11/19/84, temporary; 2/28/85; 5/19/88; 7/1/88; 4/19/89, suspended; 10/16/89, repealed)

05/11/98

Conditions Violations

255-075-0096

Denial of Re-release Consideration

- (1) Upon a finding of aggravation pursuant to Exhibit E or Exhibit H, the Board may deny re-release on parole and set the parole release date up to two (2) days before the statutory good time date, or, in the case of murder or aggravated murder, require the parole violator to serve for life. This action requires the affirmative vote of a majority of members, except that if the result is life imprisonment, the full Board must vote unanimously.
- (2) Denial of re-release on parole requires a future disposition hearing.
- (3) Cases in which the Board sets a parole violator within the guidelines set forth in rule 255-075-0079 and the result requires the parole violator to serve to the end of the sentence, do not require a majority vote of all members.
- (4) At any time after denial of re-release, the Board may adjust the parole release date to accommodate changes in the good time date.

Statutory Authority: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780, 144.783-787
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary; 10/15/91, 03/14/97)

255-075-0097

Time for Future Disposition Hearing

When the Board holds a future disposition hearing pursuant to 255-075-0072(2) or 255-075-0096, the following timelines shall apply:

- (1) If the offender has a new conviction, the Board may schedule the future disposition hearing at the same time as the new prison term hearing.
- (2) If the offender has no new conviction or has no prison term hearing, the Board shall schedule the future disposition hearing within 60 days of return to the institution.

Statutory Authority: ORS 144.050, 144.140, 144.395
History: (4/19/89, temporary; 10/16/89; 10/9/92)

255-075-0098

Restoration of Statutory and Meritorious Goodtime

Upon recommendation of the superintendent of the institution, the Board may restore part or all of forfeited statutory and meritorious goodtime when:

- (1) there is no violation of parole; or
- (2) parole is revoked on a best interest basis and there is no actual parole violation; or
- (3) parole is revoked on a technical violation; or

- (4) parolee is within 180 days of discharge; or
- (5) parole is revoked for new criminal activity which is a misdemeanor or non person-to-person class C felony and:
 - (a) the new criminal activity was already sanctioned at the local level;
or
 - (b) the criminal activity is not of the same nature as the crimes for which the parolee was on parole.
- (6) An offender ordered to serve a term of incarceration as a Revocation sanction for a post-prison supervision violation is not eligible for goodtime, earned-credit time, work release, transitional or temporary leave.

Statutory Authority: ORS 421.120, 144.108(3)

History: (3/14/88, temporary; 5/19/88; 12/6/88; 10/16/89; 10/9/92, 03/14/97, temporary 11/14/97; 05/11/98)

255-075-0100

Future Disposition Hearing Packet

The Future Disposition Hearing Packet shall contain:

- (1) institution face sheet;
- (2) revocation recommendation;
- (3) final order of revocation;
- (4) administrative action sheet;
- (5) revocation hearing findings;
- (6) Board Action Form ordering parole or Board Action Form ordering post-prison supervision conditions;
- (7) disciplinary report, when extension is recommended;
- (8) recommendation regarding statutory and meritorious goodtime;
- (9) correspondence;
- (10) statements of imprisonment for violation; and
- (11) face sheet from old parole analysis report or comparable report.
- (12) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.185, 144.395

History: (5/19/88; 12/6/88; 10/16/89, 03/14/97)

Temp
Eff

7-13-98

to

1-9-99

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on 07-13-98 by the
Date prior to or same as filing date.

Oregon Board of Parole & Post-Prison Supervision Chapter 255

Agency and Division Michael R. Washington Administrative Rules Chapter Number 503-945-0900

Rules Coordinator 2575 Center Street NE Telephone Salem, Oregon 97310

Address 07-13-98 through 01-12-99

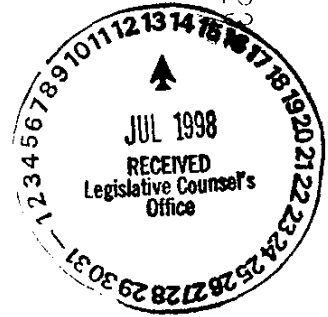
to become effective 07-13-98 Date upon filing or later through 01-12-99 A maximum of 180 days including the effective date.

RULEMAKING ACTION
List each rule number separately, 000-000-0000.

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 255-075-0001(2) (a) (2) (A)

SUSPEND:



ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108, 144.346

Stat. Auth.: ORS Chapter 525 Oregon Laws 1997 (Enrolled SB 156)

Other Authority ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Chapter 525

Stats. Implemented: ORS Oregon Laws 1997 (Enrolled SB 156)

RULE SUMMARY

Enrolled SB 156 was signed into law on July 14, 1997, and was effective immediately. This Temporary Amendment will allow the Board to more effectively implement SB 156 in partnership with the Department of Corrections and Local Supervisory Authorities in a more efficient manner.

Diane M. Rea
Authorized Signer Diane M. Rea, Chairperson

Date 07-13-98

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Board of Parole & Post-Prison Supervision

Chapter 255

cy and Division

Administrative Rules Chapter Number

In the Matter of the temporary amendment)
of OAR 255-075 relating to)
Procedures for Responses to Parole }
& Post-Prison Supervision)
Conditions Violations)

Statutory Authority,
Statutes Implemented,
Statement of Need,
Principal Documents Relied Upon,

Statutory Authority: ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108 and 144.346. Chapter 525 Oregon Laws 1997 (Enrolled SB 156).

Other Authority: N/A

Statutes Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, and 144.346. Chapter 525 Oregon Laws 1997 (Enrolled SB 156).

Need for the Temporary Rule(s):

Enrolled SB 156 was signed into law on July 14, 1997, and was effective immediately. These temporary amendments will allow the Board to implement SB 156 in partnership with the Department of Corrections and local supervisory authorities in a timely and efficient manner.

Documents Relied Upon: Enrolled SB 156; Program Option Package #255-01 in Board's 1997-99 Legislatively Adopted Budget.

Justification of Temporary Rule(s):

To establish efficient procedures for the management of offenders in accordance with SB 156. The Board finds that following the permanent rule making process, rather than taking this temporary rulemaking action, will result in serious delay and the full implementation of SB 156 and full compliance with Oregon Law.



Authorized Signer and Date

Diane M. Rea, Chairperson

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Board of Parole and Post-Prison Supervision Chapter 255

and Division

Michael R. Washington

Administrative Rules Chapter Number

503-945-0900

Rules Coordinator

2575 Center Street NE

Telephone

Salem, Oregon 97310

Address

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 255-075-0001 (2) (a) (2) (A)

REPEAL:

ber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108, 144.346

Stat. Auth.: ORS

Chapter 525 Oregon Laws 1997 (Enrolled SB 156)

Other Authority

ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Chapter 525

Stats. Implemented: ORS

Oregon Laws 1997 (Enrolled SB 156)

RULE SUMMARY

Enrolled SB 156 was signed into law on July 14, 1997, and was effective immediately. This Temporary Amendment will allow the Board to more effectively implement SB 156 in partnership with the Department of Corrections and Local Supervisory Authorities in a more efficient manner.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing be published in the *Oregon Bulletin* at least 14 days before the hearing.

August 21, 1998

Last Day for Public Comment



Authorized Signer and Date

Diane M. Rea, Chairperson

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

ARC 923-1997

EFF

8-2698

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

FILED

AUG 21 1998

Verify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on August 24, 1998 by the
Date prior to or same as filing date.

Oregon Board of Parole and Post-Prison Supervision Chapter 255

Agency and Division Michael R. Washington Administrative Rules Chapter Number 503-945-0900

Rules Coordinator 2575 Center Street NE Salem, OR 97310 Telephone

Address 2575 Center Street NE Salem, OR 97310
to become effective 08-27-98 Rulemaking Notice was published in the 08-01-98 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000.

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 255-075-0001 (2) (a) (2) (A)
255-036-0005, 255-036-0010, 255-036-0015, 255-036-0020, 255-036-0030
255-037-0005, 255-037-0010, 255-037-0015, 255-037-0020, 255-037-0030

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.



ORS 144.050, 144.122, 144.125, 144.126, 144.140, 144.223, 144.226
Stat. Auth.: ORS 144.228, 144.232, 144.260
ORS 183.335, 144.096, 144.098, 144.102, 144.106, 144.108, 144.346
Other Authority Chapter 525 Oregon Laws 1997 (Enrolled SB 156)

Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.106, 144.108, 144.346 & Chapter 5:
Oregon Laws 1997 (Enrolled SB 156)

RULE SUMMARY

Divisions 36 & 37: Changed "prisoner" and "offender" to "inmate" to be consistent with all Board Administrative Rules and the Department of Corrections' Administrative Rules.

Division 75: Enrolled SB 156 was signed into law on July 14, 1997, and was effective immediately. This Permanent Amendment will allow the Board to more effectively implement SB 156 in partnership with the Department of Corrections and Local Supervisory Authorities in a more efficient manner.

Authorized Signer Diane M. Rea, Chairperson

Date 08/26/98

*Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
**The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.
ARC 930-1997

DIVISION 36

DANGEROUS OFFENDERS

For Crimes Occurring Prior to November 1, 1989

Parole Consideration Hearings

255-036-0005

- (1) Within six (6) months after commitment to the Department of Corrections' custody of any person sentenced as a dangerous offender, the Board shall set a date for a parole consideration hearing which shall be no later than ten (10) days prior to the date the inmate would have been eligible for parole release under Division 35 of these rules if the court had not sentenced the offender pursuant to ORS 161.725 and 161.735 as a dangerous offender.
- (2) A person sentenced as a dangerous offender for felonies committed prior to November 1, 1989 is eligible for parole release:
 - (a) after having served the Board ordered prison term; and
 - (b) the Board finds the inmate no longer dangerous; or
 - (c) the Board finds the inmate remains dangerous but can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate.
- (3) If the Board is unable to make the findings required by section (2) of this rule, the Board shall schedule reviews once every two (2) years until:
 - (a) the Board is able to make the required findings; or
 - (b) the maximum court ordered sentence, less good time, expires.
- (4) If after the Board makes the findings required by section (2) of this rule, the Board later has reasonable cause to believe the inmate's dangerousness has returned and/or the inmate cannot be adequately controlled with supervision and mental health treatment or that the necessary resources for supervision and treatment are unavailable, the Board may order an evaluation pursuant to ORS 144.226 and shall conduct a new parole consideration hearing.
- (5) If, at the parole consideration hearing or at any subsequent review, the Board makes the findings required by section (2) of this rule, the Board shall order parole release, subject to ORS 144.125 144.270-.275 regarding review of release plans and supervision conditions.

- (6) At any hearing or review, the Board may consider:
- (a) the examining psychologist or psychiatrist's written report;
 - (b) a written report from the executive officer of Department of Corrections institution in which the inmate has been confined;
 - (c) a field analysis report and release plan, including verification that adequate supervision and mental health treatment are immediately available for the particular inmate;
 - (d) any other information regarding the inmate that the Board finds relevant.

Statutory Authority: ORS 144.226, 144.228

History: (7/26/93, temporary; 10/29/93, 8/26/98)

Evaluations

255-036-0010

- (1) Within sixty (60) days of the last day of the prison term and at least every two years thereafter, the Board shall order a complete mental and psychological or psychiatric examination of the inmate.
- (2) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other information the psychologist or psychiatrist believes will aid the Board in determining whether the examined person is eligible for release.
- (3) The report of the psychologist or psychiatrist shall:
 - (a) include a statement as to whether the dangerous offender has any mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;
 - (b) any other information which would aid the Board in determining whether the inmate is eligible for release;
 - (c) state progress or changes in the condition of the examined inmate;
 - (d) contain recommendations for treatment or medication that would assist the inmate in performing satisfactorily in the community upon release;
 - (e) be filed with the Board within 60 days after the examination;
 - (f) be certified and sent to the inmate, the inmate's attorney, and to the institution superintendent.

Statutory Authority: ORS 144.226, 144.228

History: (7/26/93, temporary; 10/29/93; 8/15/94, 8/27/98)

8/27/98

Dangerous Offender/Pre-Nov. 1, 1989

Department of Corrections Written Reports
255-036-0015

The written report of the executive officer of the Department of Corrections, which the Board shall review at the parole consideration hearing, shall contain:

- (1) a detailed account of the inmate's conduct while confined;
- (2) all infractions of rules and discipline, the circumstances, and the punishment imposed;
- (3) extent to which the inmate has responded to efforts made in the institution to improve his/her mental and moral condition;
- (4) a statement as to the person's present attitude towards society, the sentencing judge, the district attorney, and the arresting police officer;
- (5) a statement as to the inmate present attitude towards his/her previous criminal career;
- (6) the work record, showing average number of hours worked per day and the nature of the occupations;
- (7) the program history, including a summary of any psychological or substance abuse treatment and other activities that will assist the Board in:
 - (a) understanding the psychological adjustment and social skills and habits of the inmate; and
 - (b) determining the likelihood for successful community reentry.

Statutory Authority: ORS 144.228

History: (11/1/89; 7/26/93, temporary; 10/29/93, 8/27/98)

Request for Review Prior to Release Hearing Date
255-036-0020

- (1) Notwithstanding subsection 1 of OAR 255-036-0005, a inmate sentenced as a dangerous offender under ORS 161.725 and 161.735 may request a parole consideration hearing prior to the earliest time the inmate is eligible for parole release or a two year review. The Board may consider information presented by the inmate to determine whether the inmate is no longer dangerous or that even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate.
- (2) The Board shall review the request for a parole consideration hearing by administrative file pass.

- (3) If the Board finds, based upon the request and the information therein, there is reasonable cause to believe the inmate is no longer dangerous or even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate, the Board shall order the documents required by ORS 144.228 and this division and conduct a parole consideration hearing as soon as reasonably convenient.
- (4) If the Board finds there is not reasonable cause to believe the inmate is no longer dangerous or even though the inmate remains dangerous, the inmate can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate, the Board will review the inmate case at the originally scheduled parole consideration hearing pursuant to OAR 255-036-0005(1).

Statutory Authority: ORS 144.228

History: (7/26/93, temporary; 10/29/93; 8/15/94, 8/27/98)

The Release Hearing Packet
255-036-0025

The Parole Consideration Hearing Packet shall contain:

- (1) institution face sheet;
- (2) all prior Board Action Forms;
- (3) psychological or psychiatric evaluations; and reports pursuant to ORS 144.226 to ORS 144.228;
- (4) documents listed in OAR 255-036-0005(6);
- (5) correspondence;
- (6) field parole analysis report or report of similar content which shall include verification of supervision level and admission to mental health treatment; and
- (7) court orders.

Statutory Authority: ORS 144.228

History: (7/26/93, temporary; 10/29/93)

Parole Supervision
255-036-0030

A dangerous offender released to parole prior to the sentence expiration shall serve the remainder of the sentence term imposed under ORS 161.725 and 161.735 on parole. The inmate shall serve at least three years of supervised parole.

Statutory Authority: Oregon Laws 1993, Chapter 680, Section 1(b) [SB139]

History: (7/26/93, temporary; 10/29/93, 8/27/98)

DIVISION 37

DANGEROUS OFFENDERS

For Crimes Occurring on or after November 1, 1989

Release Hearings
255-037-0005

- (1) Within six (6) months after commitment to the Department of Corrections' custody of any person sentenced as a dangerous offender, the Board shall set a date for a release hearing which shall be no later than ten (10) days prior to the date the inmate is eligible for release on post-prison supervision.
- (2) A person sentenced as a dangerous offender for felonies committed on or after November 1, 1989 is eligible for release on post-prison supervision:
 - (a) after having served the incarceration term set forth on the judgment order; and
 - (b) the Board finds the inmate no longer dangerous; or
 - (c) the Board finds the inmate remains dangerous but can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate.
- (3) If the Board is unable to make the findings required by section (2) of this rule, the Board shall schedule reviews once every two (2) years until:
 - (a) the Board is able to make the required findings; or
 - (b) the maximum indeterminate sentence expires.
- (4) If after the Board makes the findings required by section (2) of this rule, the Board later has reasonable cause to believe the inmate dangerousness has returned and/or the inmate cannot be adequately controlled with supervision and mental health treatment or that the necessary resources for supervision and treatment are unavailable, the Board may order an evaluation pursuant to ORS 144.226 and shall conduct a new release hearing.
- (5) If, at the release hearing or at any subsequent review, the Board makes the findings required by section (2) of this rule, the Board shall order release to post-prison supervision, subject to ORS 144.096, 144.098 and 144.102 regarding supervision conditions and review of release plans, and subject to eligibility for release under statute and rule.
- (6) At any hearing or review, the Board may consider:
 - (a) the examining psychologist or psychiatrist's written report;
 - (b) a written report from the executive officer of Department of Corrections institution in which the inmate has been confined;

- (c) a field analysis report and release plan, including verification that adequate supervision and mental health treatment are immediately available for the particular inmate;
- (d) any other information regarding the inmate that the Board finds relevant.

Statutory Authority: ORS 144.226, 144.228, 144.232

History: (11/1/89; 7/1/91, temporary; 12/1/91; 7/26/93, temporary; 10/29/93, 8/27/98)

Evaluations

255-037-0010

- (1) Within sixty (60) days of the last day of the incarceration term and at least every two years thereafter, the Board shall order a complete mental and psychological or psychiatric examination of the inmate.
- (2) The evaluation provided may consist of a diagnostic study, including a comprehensive evaluation of the individual's personality, intelligence level, personal and social adjustments, or other information the psychologist or psychiatrist believes will aid the Board in determining whether the examined person is eligible for release.
- (3) The report of the psychologist or psychiatrist shall:
 - (a) include a statement as to whether or not the dangerous offender has any mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;
 - (b) any other information which would aid the Board in determining whether the inmate is eligible for release;
 - (c) state progress or changes in the condition of the examined inmate;
 - (d) contain recommendations for treatment or medication that would assist the inmate in performing satisfactorily in the community upon release;
 - (e) be filed with the Board within 60 days after the examination;
 - (f) be certified and sent to the inmate, the inmate's attorney, and to the institution superintendent.

Statutory Authority: ORS 144.226, 144.228

History: (11/1/89; 7/1/91, temporary; 12/1/91; 7/26/93, temporary; 10/29/93; 8/15/94, 8/27/98)

Department of Corrections Written Reports
255-037-0015

The written report of the executive officer of the Department of Corrections, which the Board shall review at the release hearing, shall contain:

- (1) a detailed account of the inmate's conduct while confined;
- (2) all infractions of rules and discipline, the circumstances, and the punishment imposed;
- (3) extent to which the inmate has responded to efforts made in the institution to improve his/her mental and moral condition;
- (4) a statement as to the person's present attitude towards society, the sentencing judge, the district attorney, and the arresting police officer;
- (5) a statement as to the inmate's present attitude towards his/her previous criminal career;
- (6) the work record, showing average number of hours worked per day and the nature of the occupations;
- (7) the program history, including a summary of any psychological or substance abuse treatment and other activities that will assist the Board in:
 - (a) understanding the psychological adjustment and social skills and habits of the inmate; and
 - (b) determining the likelihood for successful community reentry.

Statutory Authority: ORS 144.228

History: (11/1/89; 7/26/93, temporary; 10/29/93, 8/27/98)

Request for Review Prior to Release Hearing Date
255-037-0020

- (1) Notwithstanding subsection 1 of OAR 255-037-0005, a inmate sentenced as a dangerous offender under ORS 161.725 and 161.735 may request a release hearing prior to the earliest time the inmate is eligible for release to post-prison supervision or a two year review. The Board may consider information presented by the inmate to determine whether the inmate is no longer dangerous or that even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate.
- (2) The Board shall review the request for a release hearing by administrative file pass.
- (3) If the Board finds, based upon the request and the information therein, there is reasonable cause to believe the inmate is no longer dangerous or even though dangerous, can be adequately controlled with supervision and mental health treatment which are in fact available to the inmate, the Board shall order the documents required by this division and conduct a release hearing as soon as reasonably convenient.

- (4) If the Board finds there is not reasonable cause to believe the inmate is no longer dangerous or even though the inmate remains dangerous, the inmate can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the inmate, the Board will review the inmate's case at the originally scheduled release hearing pursuant to OAR 255-037-0005(1).

Statutory Authority: ORS 144.228

History: (11/1/89; 7/26/93, temporary; 10/29/93; 8/15/94, 8/27/98)

The Release Hearing Packet
255-037-0025

The Post-Prison Supervision Release Hearing Packet shall contain:

- (1) institution face sheet;
- (2) all prior Board Action Forms;
- (3) psychological or psychiatric evaluations; and reports pursuant to ORS 144.226 to ORS 144.228;
- (4) documents listed in OAR 255-37-005(6);
- (5) correspondence;
- (6) field parole analysis report or report of similar content which shall include verification of supervision level and admission to mental health treatment; and
- (7) court orders.

Statutory Authority: ORS 144.228

History: (11/1/89; 7/1/91, temporary; 12/1/91; 7/26/93, temporary; 10/29/93)

Post-Prison Supervision
255-037-0030

- (1) A dangerous offender released to post-prison supervision prior to the sentence expiration shall serve the remainder of the sentence term imposed under ORS 161.725 and 161.735 on post-prison supervision.
- (2) The Board of Parole and Post-Prison Supervision may return an inmate for a period of 180 days as a sanction for any supervision violation. Notwithstanding ORS 137.010 and the rules of the State Sentencing Guidelines Board, the Board may impose the sanction repeatedly for subsequent violations during the term of post-prison supervision.
- (3) The Board may at any time, return the inmate to prison and require that the inmate submit to an examination as provided in ORS 144.226. If the Board finds the inmate dangerous and/or cannot be adequately controlled with supervision and mental health treatment and/or the necessary resources for supervision and treatment are unavailable to the inmate, the Board shall return the inmate to prison for an indefinite period of time, not to exceed the sentence expiration date.

The Board shall review an inmate returned to prison once every two years as provided in OAR 255-037-0005.

Statutory Authority: ORS 144.232

History: (11/1/89; 7/1/91, temporary, 12/1/91; 7/26/93, temporary; 10/29/93, 8/27/98)

8/27/98

Dangerous Offender/Nov. 1, 1989

JK

10-14-97

FILED
OCT 14 1998

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

ARCHIVES DIVISION
SECRETARY OF STATE

I certify that the attached copies* are true, full and correct copies of the TEMPORARY RULE(s) adopted on October 12, 1998 by the
Oregon Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington 503-945-9009
Rules Coordinator Telephone
2575 Center Street NE, Salem, Oregon 97310
Address

to become effective 10-14-98 through 04-11-99
Date upon filing or later A maximum of 180 days including the effective date

Rulemaking Action
List each rule number separately, 000-000-0000.

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 255-015-0002, 255-015-0003, 255-015-0005, 255-015-0010, 255-015-0015

SUSPEND:
ORS 183.335, 192.410-505, 144.025(3), 144.050
Stat. Auth: ORS
None
Other Authority
None
Stats. Implemented: ORS

RULE SUMMARY

To establish effective and efficient procedures for the management and disclosure of offender/inmate records and files in conformity with ORS 192.410-505. The Board finds that following permanent rule making process, rather than taking this temporary rulemaking action, will result in serious delay of being in full compliance with the Oregon Public Records Law.

The current rule omits certain exemptions allowed under Oregon Public Records Law and may be read as waiving those exemptions. This would result in mandating disclosure of documents in circumstances where the public interest favors confidentiality or would suffer by the disclosure. The current rule also appears to mandate disclosure of pre-sentence investigation reports in some instances, in violation of ORS 137.077.

Michael R. Washington 10-14-98
Authorized Signer Date

*Copies include a photocopy of this certificate with paper copy of each rule listed in the Rulemaking Action.

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division
Number

Chapter 255
Administrative Rules Chapter

In the Matter of the Temporary amendment of OAR 255-015 relating to Requests For Board Records Or Files))))))	Statutory Authority, Statutes Implemented, Statement of Need, Principal Documents Relied Upon
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Statutory Authority: ORS 183.335, 192.410-505, 144.025(3), 144.050

Other Authority: N/A

Statutes Implemented: ORS 192.410-505, 144.120(7), 144.130, 144.185

Need for the Temporary Rule(s): The Oregon Department of Justice has advised the Board that the current OAR 255-015 does not conform to ORS 192.410-505 (Public Records Law). The Board receives requests for public records on a frequent basis. These temporary amendments will allow the Board to respond to these requests in conforming with ORS 192.410-505 immediately.

Documents Relied Upon: ORS 192.410-505; Memo from Assistant Attorney General, Department of Justice

Justification of Temporary Rule(s):

To establish effective and efficient procedures for the management and disclosure of offender/inmate records and files in conformity with ORS 192.410-505. The Board finds that following permanent rule making process, rather than taking this temporary rulemaking action, will result in serious delay of being in full compliance with the Oregon Public Records Law.

The current rule omits certain exemptions allowed under Oregon Public Records Law and may be read as waiving those exemptions. This would result in mandating disclosure of documents in circumstances where the public interest favors confidentiality or would suffer by the disclosure. The current rule also appears to mandate disclosure of pre-sentence investigation reports in some instances, in violation of ORS 137.077.



Authorized Signer and Date

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form.

FILED

OCT 14 1998

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

ARCHIVES DIVISION
SECRETARY OF STATE
Chapter 255
Administrative Rules Chapter Number

Michael R. Washington
Rules Coordinator

503-945-9009
Telephone

2575 Center Street NE, Salem, Oregon 97310
Address

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 255-015-0002, 255-015-0003, 255-015-0005, 255-015-0010, 255-015-0015

REPEAL:

Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

ORS 183.335, 192.410-505, 144.025(3), 144.050

Stat. Auth.: ORS

Other Authority

Stats. Implemented: ORS

RULE SUMMARY

To establish effective and efficient procedures for the management and disclosure of offender/inmate records and files in conformity with ORS 192.410-505. The Board finds that following permanent rule making process, rather than taking this temporary rulemaking action, will result in serious delay of being in full compliance with the Oregon Public Records Law.

The current rule omits certain exemptions allowed under Oregon Public Records Law and may be read as waiving those exemptions. This would result in mandating disclosure of documents in circumstances where the public interest favors confidentiality or would suffer by the disclosure. The current rule also appears to mandate disclosure of pre-sentence investigation reports in some instances, in violation of ORS 137.077.

A public rulemaking hearing may be requested by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

11-20-98
Last Day for Public Comment

Diane De Res
Authorized Signer and Date

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of The Proposed Amendments	)	Statutory Authority,
of Rules of the Board of Parole & Post-Prison	)	Statutes Implemented,
Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 183.335, 192.410-505. 144,025(3). 144.050

Other Authority: None

Statutes Implemented: ORS None

Need for the Rule(s): The Oregon Department of Justice has advised the Board that the current OAR 255-015 does not conform to ORS 192.410-505 (Public Records Law). The Board receives requests for public records on a frequent basis. These proposed amendments will allow the Board to respond to these requests in conforming with ORS 192.410-505.

Documents Relied Upon: ORS 192.410-505; Memo from Assistant Attorney General, Department of Justice.

Fiscal and Economic Impact: We are not aware of any fiscal or economic effect these rules may have on the Board, or other agencies, local government, and the identified public.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The Board of Parole & Post-Prison Supervision enacted these rules and changes during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.



Authorized Signer and Date

DIVISION 15

REQUEST FOR BOARD RECORDS OR FILES ORS 144.120(7), 144.130, 144.185, 192.001-505

Board Records 255-015-0002

The Board shall maintain a separate file on each person under its jurisdiction which shall contain the materials obtained pursuant to ORS 144.185.

History: (12/2/86, temporary; 4/28/87; 5/19/88; 10/9/92; **Temporary 10/14/98**)

Oral Record of Hearing 255-015-0003

A tape of the oral proceedings of any hearing shall be kept by the Board for at least two years.

History: (12/2/86, temporary; 4/28/87; 5/19/88; **Temporary 10/14/98**)

Obtaining Information from Board Records 255-015-0005

- (1) Any interested party may apply for information from a selected record.
- (2) The request must be in writing, addressed to the chairperson of the Board and must specify the information requested.
- (3) The chairperson or designee shall review the record to determine what may be disclosed in accordance with OAR 255-015-0010, and within ten (10) working days shall advise the person or agency whether the requested information is available and may be disclosed.

History: (5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92;
Temporary 10/14/98)

Criteria for Denial of Disclosure of Records 255-015-0010

- (1) The Board shall disclose its records to any person or agency unless: [disclosure would:]
 - (a) Disclosure would interfere with the rehabilitation of the [person concerned] inmate/offender, and the public interest in confidentiality clearly outweighs the public interest in disclosure; or
 - (b) Disclosure would substantially prejudice or prevent [interfere] the carrying out of the functions of the Board or the Department of Corrections, and the public interest in confidentiality clearly outweighs the public interest in disclosure; or.

Temporary 10/14/98

Request for Records or Files

- (c) [endanger the inmate or other persons] The information was submitted to a public body in confidence, the information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and the public interest will suffer by disclosure of the information; or
 - (d) [compromise the privacy of the inmate or another person] The requested record is a presentence investigation report prepared pursuant to ORS 137.077 or 137.530; or
 - (e) [interfere with frank advisory communications between officials or employees of public agencies] The requested records constitute advisory communications within a public body and in this instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure; or
 - (f) [compromise an ongoing criminal investigation] The records comprise investigatory information compiled for criminal law purposes and the public interest does not require disclosure in this particular instance; or
 - (g) [violate ORS 137.077 or 137.530 (relating to the PSI)]The requested records pertain to potential or pending litigation involving the Board and the public interest does not require disclosure in this particular instance; or
 - (h) [the public interest in confidentiality clearly outweighs the public interest in disclosure.] The requested records are otherwise exempt from disclosure under the Public Records Law or other provisions of law; other reasons.
- (2) When the Board denies disclosure of information [to a prisoner], the Board [must enter into the record a written statement of] will provide the reasons for denial. [which only the] The Board may provide a more detailed written statement of the reason(s) for denial which only the Attorney General and the courts may review.
- (3) When a document contains information that is exempt from disclosure, the Board shall separate exempt material from nonexempt material and disclose the nonexempt material.

History: (5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92 ,
Temporary 10/14/98)

Fees for Board Records
255-015-0015

- (1) The fees for documents shall be as follows:
 - (a) Fifty cents per page, if the request is for specific, identified, disclosable information from the Board Review Packet; or
 - (b) Fifty cents per page, plus a charge for staff time, if the request requires a review of the Board Record and a determination of availability.

EFF

11-9-98

Secretary of State
Certificate Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 11-02-98 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number

Michael R. Washington (503) 945-0900
Rules Coordinator Telephone

2575 Center Street NE, Salem, OR 97310
Address

to become effective 11-09-98 Date upon filing or later Rulemaking Notice was published in the 10-01-98 Month and Year Oregon Bulletin.**

RULEMAKING ACTION
List each rule number separately, 000-000-0000

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:
255-060-0006, 255-060-0012, 255-060-0013, 255-060-0014, 255-060-0020
255-065-0005, 255-065-0015, 255-065-0020
255-070-0001, 255-070-0015
Exhibit J

REPEAL:
Number: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

ORS 144.096, 144.098, 144.102, 144.106, 144.115, 144.135, 144.185, 144.223, 144.270, 144.305, 144.310, 144.335, 144.343, 144.800
Stat. Auth.: ORS

None
Other Authority

None
Stats. Implemented: ORS

RULE SUMMARY

Changed "Prisoner" and "Offender" to "inmate to be consistent with all Board Administrative Rules and Department of Corrections Administrative Rules. Also, amended rules to clarify the roles of the Board of Parole & Post-Prison Supervision, Department of Corrections, and Local Supervisory Authorities as it relates to the supervision offenders.

Diane De. Res Date 11-9-98
Authorized Signer

*Include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

FILED
NOV 09 1998
ARCHIVES DIVISION
SECRETARY OF STATE



DIVISION 60

**RELEASE TO POST-PRISON SUPERVISION OR PAROLE
AND EXIT INTERVIEWS**

255-060-0006

Exit Interviews: Parole Plan; and Psychiatric Records

- (1) At any time prior to an inmate's scheduled release to post-prison supervision or parole, the Board on its own initiative or at the request of the Department of Corrections, may conduct an exit interview to review the inmate's:
 - (a) release plan;
 - (b) victim's statements, if any;
 - (c) PSR or similar report;
 - (d) psychiatric/psychological reports, if any;
 - (e) conduct while in confinement; and
 - (f) any other information relevant to the inmate's reintegration into the community that the inmate, the inmate's attorney, the Department of Corrections or any other person submits.
- (2) The procedures for records, disclosure and notice outlined in Division 15 and 30 shall govern exit interviews.
- (3) A panel shall conduct the interview and the Board shall make decisions pursuant to OAR 255-030-0015.

Statutory Authority: ORS 144.098, 144.125, 144.800
History: (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85;
5/19/88; 11/1/89; 4/5/90; 5/1/91, temporary; 10/15/91; 2/12/92,
temporary; 4/15/92; 10/9/92, 03/14/97 **11/09/98**)

255-060-0008

Release Plans

- (1) At any time prior to release on parole or post-prison supervision, the Board shall examine the inmate's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:
 - (a) employment;
 - (b) school, or other situation (e.g., retirement income);
 - (c) verifiable residence;
 - (d) a description of support services, program opportunities and treatment programs;

11/09/98

Parole Release & Exit Interview

- (e) prescribed medication;
 - (f) recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
 - (g) level of supervision consistent with the prisoner's risk assessment classification; and
 - (h) a restitution and compensatory fine payment schedule.
- (2) The Board may defer parole release up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification or a satisfactory plan from the Department of Corrections.
- (3) An inmate requesting an out-of-state parole waives the ninety (90) days limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.
- (4) The Board shall not defer release to post-prison supervision. The following procedure shall apply:
- (a) If the release plan the Department of Corrections or designee of Local Supervisory Authority submits at least 60 days prior to release is deficient, the Board will return it to the submitting agency with the Board's recommended modifications.
 - (b) The Department or designee of Local Supervisory Authority shall submit a revised plan to the Board not less than ten days prior to the inmate's release.
 - (c) If the Board does not accept the revised plan, the Board shall determine the provisions of the final plan prior to the prisoner's release.
- (5) One Board member shall review and approve the release plan.

Statutory Authority: ORS 144.096, 144.125, 144.185

History: (4/5/90; 5/1/91, temporary; 10/15/91; 1992 proposed change, 03/14/97)

255-060-0010

Waiver of the 90-Day Limitation; Deferral for Serious Misconduct

History: (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0012

Psychological or Psychiatric Reports

This rule does not apply to inmates whose only crimes are committed on or after November 1, 1989.

- (1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.
- (2) Pursuant to ORS 144.223, the Board may postpone the parole release date administratively and order a psychiatric/psychological evaluation of any inmate anytime prior to release.
- (3) After review of the psychiatric/psychological reports, and all other information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding:
 - (a) the inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.
- (4) The Board shall not deny release on parole solely because of an inmate's present severe emotional disturbance. The Board must also find the condition constitutes a danger to the health or safety of the community.
- (5) The majority of the Board may defer a scheduled parole release date up to two years. A panel may defer a scheduled parole release date up to 18 months.
- (6) If the Board finds the inmate does not have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board shall affirm the parole release date and set parole conditions.

Statutory Authority: ORS 144.125, 144.223

History: (4/5/90; 1/13/92; 7/26/93, temporary; 10/29/93, 03/14/97, 11/09/98)

255-060-0013

Postponement Order

Any order regarding the postponement of parole release shall be sent to the inmate and shall set forth:

- (1) the facts and specific reasons for the decision and the votes of the Board members;
- (2) notice of the right to administrative appeal pursuant to the procedures of Division 80.

Statutory Authority: ORS 144.125, 144.135, 144.335

History: (4/5/90, 03/14/97)

255-060-0014

Detainers

- (1) When an inmate has a detainer from another jurisdiction, the Department of Corrections will release the inmate to the detainer and Oregon active community supervision shall begin upon the inmate's release into the community from the holding jurisdiction, if the Oregon sentences have not expired while the inmate is incarcerated in another jurisdiction.
- (2) If a parolee is released by the Department of Corrections to a detainer from another jurisdiction and is recommitted to the Oregon Department of Corrections, the previous parole order shall be voided.
- (3) When an inmate has a new Sentencing Guidelines commitment to the Department of Corrections' custody, the Oregon active community supervision shall begin upon the inmate's release into the community, if the sentences have not expired while the inmate is incarcerated.

Statutory Authority: ORS 144.305, 144.310

History: (4/5/90; 10/9/92, 03/14/97, 11/09/98)

255-060-0015

Instate Parole Release Interview Procedures

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0020

Out-of-State Parole Release Hearing Procedures

An inmate in the Department of Corrections' custody who is housed in an out-of-state facility may receive a teleconference exit interview in conformance with rule 255-060-0006.

Statutory Authority: ORS 144.098, 144.125

History: (2/1/79; 5/31/85; 5/19/88; 10/9/92, 03/14/97, Notice 11/09/98)

255-060-0025

Parole Consideration for Prisoners in a Local Jail

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0030

Exit Interview Board Review Packet

The exit interview Board Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing, if any;
- (3) psychiatric and/or psychological evaluations (previous 6 months);
- (4) correspondence;
- (5) field parole analysis report, a pre-sentence investigation report or comparable report;
- (6) court orders;
- (7) misconduct reports; and
- (8) release plan.
- (9) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.096, 144.098, 144.185

History: (5/19/88; 4/5/90, 03/14/97)

DIVISION 65

**RESTITUTION AND SUPERVISION FEES
ORS 137.101, 137.106, 161.665, 423.570, 144.102, 144.275**

When Restitution, Fines and Fees are Ordered: Payment Schedule
255-065-0005

- (1) For a crime committed after October 4, 1977, when the court sentences a person to pay restitution pursuant to ORS 137.106 and defers any portion of that payment until after release from imprisonment, the Board shall order restitution as a parole or post-prison supervision condition. The court order must specifically order restitution for a specific amount to a specific party.
- (2) For a crime committed after November 1, 1981, when the court sentences a person to pay a compensatory fine pursuant to ORS 137.101 and defers any portion of that payment until after release from imprisonment, the Board shall order a compensatory fine as a parole or post-prison supervision condition. The court order must specifically order a compensatory fine for a specific amount.
- (3) When the court has sentenced a person to pay attorney fees pursuant to ORS 161.665 and defers any portion of that payment until after release from imprisonment, the Board may order payment of attorney fees as a parole or post-prison supervision condition. The court order must specifically order attorney fees for a specific amount.
- (4) In establishing and supervising a schedule for the resumption of payments, the Board shall consider:
 - (a) The offender's financial resources, including salary, savings, and liquid assets not including place of residence, or those tools or vehicles essential to personal livelihood;
 - (b) The burden that will impose in light of the person's overall obligations (e.g., family and necessary living expenses);
 - (c) Ability to pay installment or other conditions to be set by the Board; and
 - (d) The rehabilitation affect of the payment and the method of payment.
- (5) Normal payments shall range up to twenty (20) percent of a person's take-home salary without voluntary payroll deductions, unless significant savings or liquid assets not including place of residence or tools or vehicle essential to personal livelihood permit larger amounts.
- (6) The Board shall provide to the sentencing court a copy of the schedule of payments and any modifications.

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, 5/19/88; 11/1/89;
10/9/92, 11/09/98)

11/09/98

Restitution & Fees

Sentencing Including Restitution as Mitigation
255-065-0010

History: (2/1/79; 5/31/85, repealed)

Supervision of Payments: Conditions; Default; Effect on Discharge
255-065-0015

- (1) The offender shall make payments of restitution, compensatory fines, or attorney fees to the clerk of the court of the county of sentencing.
- (2) The supervising officer shall establish the method and manner of payment for the Board's approval.
- (3) If the offender has not made total payment of restitution or compensatory fines by the completion of the designated minimum period of supervision, the Board shall continue the offender on parole until the offender completes payment or until his/her sentence expires, whichever occurs first.
- (4) If the offender has not made total payment of attorney fees by the completion of the designated minimum period of supervision, the Board may continue the offender on parole until the offender completes payment or until his/her sentence expires, whichever occurs first.
- (5) The Board may require a person to pay restitution as a condition of post-prison supervision imposed for an offense other than the offense for which the restitution was ordered if the person:
 - (a) was ordered to pay restitution as a result of another conviction; and
 - (b) has not fully paid the restitution by the time the person has completed the period of post-prison supervision imposed for the offense for which the restitution was ordered.

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85; 5/19/88; 11/1/89; 7/1/90; 10/9/92, 11/09/98)

Establishment of Supervision Fees: Criteria, Disbursement of Fees
255-065-0020

- (1) When a person is placed on parole or post-prison supervision, subject to supervision by either the Department of Corrections or a community corrections program established under ORS 423.500 to 423.560, the person shall pay a monthly fee to offset the costs of supervising parole or post-prison supervision. Fees are payable according to the terms set forth in ORS 423.570.

- (2) The supervision fee shall be at a rate established by the supervising community corrections program. In no case shall the fee be less than twenty-five dollars (\$25) per month. If the community corrections program fails to establish the amount of the fee, the fee shall be \$25.
- (3) The Board shall order the payment of the supervision fee as a parole or post-prison supervision condition and intentional and willful failure to pay the fee may be grounds for revocation of parole and post-prison supervision or, in the case of parole, extension of the supervision period.
- (4) In cases of financial hardship or when otherwise advisable in the interest of the released person's rehabilitation, the community program director or the Director of the Department of Corrections, whichever is appropriate, may waive or reduce the amount of the fee.
- (5) Fees collected shall be transferred to the Department of Corrections or retained by the county as provided by statute.

History: (11/3/81, temporary; 5/19/82; 5/31/85; 5/19/88; 11/1/89; 7/1/90;
10/9/92, **11/09/98**)

DIVISION 70

CONDITIONS OF PAROLE AND POST-PRISON SUPERVISION

Conditions Not Limited by Exhibit J

255-070-0001

- (1) The Board may order parole conditions pursuant to OAR 255-070-0015.
- (2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-11-001.
- (3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

Statutory Authority: (ORS 144.096, 144.102, 144.270)

History: (5/31/85; 11/3/86, temporary; 4/1/87; 4/15/88, temporary; 5/19/88; 7/1/88; 10/18/88; 4/5/90; 4/30/92, temporary; 10/9/92; 10/15/93, 11/09/98)

Offender Return to County of Residence

255-070-0003

- (1) Unless the Board waives the condition, the Board shall order as a condition of parole or post-prison supervision that an offender reside for the first six months in the county where the offender resided on the date of the last arrest for a crime resulting in imprisonment.
- (2) (a) The Board or the Department of Corrections may establish the county of residency by obtaining the last address of record at the time of the offense from all of the available information in the following records:
 - (A) An Oregon driver's license, regardless of its validity;
 - (B) The Department of Revenue;
 - (C) The Department of State Police, Bureau of Criminal Identification;
 - (D) The Department of Human Resources; or
 - (E) The Department of Corrections.
- (b) If the records do not disclose the county of residency, the Board or the Department shall find the offender resided in the county where she or he committed the crime.
- (3) Upon motion of the Board, an inmate, a victim, or a district attorney, the Board may waive the residency requirement after finding:
 - (a) the inmate provided proof of a job with no set ending date in a county other than the established county of residence;
 - (b) the inmate poses a significant danger to the victim;
 - (c) the victim or victim's family poses a significant danger to the inmate residing in the county of residence.

- (d) the inmate has a spouse or biological or adoptive family, residing in other than the county of residence, who will be materially significant in aiding in the rehabilitation of the offender and in the success of the parole or post-prison supervision period;
- (e) the Board requires that the inmate participate in a treatment program which is not available in the county of residence;
- (f) the inmate desires release to another state or another state has a detainer; or
- (g) other good cause.

Statutory Authority: (ORS 144.270(5))
 History: (11/1/89; 10/15/91; 10/9/92)

Parolee Placement in Community Corrections Centers; Standards; Limitations
255-070-0005

History: (2/1/79; 5/31/85, repealed)

Guidelines on General Condition Relating to "Best Interest" Return
255-070-0010

History: (2/1/79; 5/31/85; 11/3/86, temporary; 4/1/87; 5/19/88, repealed)

Establishing Conditions
255-070-0015

- (1) The Board may order an exit interview prior to the inmate's release date to review the inmate's case and set or approve conditions. See Division 60 for exit interview procedures.
- (2) If the Board decides to waive an exit interview, it shall specify the parole condition(s) prior to release and shall include the conditions on an order of supervision.
- (3) If the Board decides to waive an exit interview, it shall specify, in an order given to the offender upon release from incarceration, the post-prison supervision condition(s).
- (4) Once the Board establishes the conditions, the Board may amend the conditions and issue an amended order by:
 - (a) considering a requested modification administratively, if the amendment is requested before the inmate's release on parole or post-prison supervision or if a condition is deleted after release; and
 - (b) citing to a hearing, if the amendment is requested after release and the offender does not consent in writing to the addition of conditions.
- (5) The Hearings Officer may amend the conditions, after a hearing, unless the offender waives the hearing. The Hearings Officer shall send notice of the amendment to the Board.

- (6) If the offender waives the right to a hearing and consents in writing to the addition of conditions, the supervising officer may amend the conditions. The officer shall send notice of the amendment to the Board.
- (7) If the Board does not override the Hearings Officer or supervising officer amended conditions, the Board shall issue an amended order of conditions, however, the condition is in effect from the date the supervising officer or Hearings Officer orders it.
- (8) The Board or the Hearings Officer shall conduct a hearing under section (4) and (5) of this rule applying rules governing violation hearings in Division 75.
- (9) When a supervisory authority requests amended conditions before the inmate is released on parole or post-prison supervision, the supervisory authority shall submit the request in writing or by teletype to the Board prior to the release date.
- (10) An offender may appeal the conditions of parole or post-prison supervision pursuant to the procedures of Division 80.

Statutory Authority: (ORS 144.096, 144.098, 144.102, 144.106, 144.125, 144.185, 144.270, 144.343)

History: (5/19/88, 4/5/90; 4/30/92, temporary, 10/9/92, 11/09/98)

EFF

1-15-99

1-15-99

Secretary of State
Certificate Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 01-15-99 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number

Michael R. Washington (503) 945-0900
Rules Coordinator Telephone

2575 Center Street NE, Salem, OR 97310
Address

to become effective 01-15-99 Rulemaking Notice was published in the 11-01-98 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

FILED

JAN 15 1999

ARCHIVES DIVISION
SECRETARY OF STATE

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:
255-015-0002, 255-015-0003, 255-015-0005, 255-015-0010, 255-015-0015
255-040-0005, 255-040-0010, 255-040-0023, 255-040-0025, 255-040-0026, 255-040-0027,
255-040-0028, 255-040-0035, 255-040-0040
255-050-0005, 255-050-0010, 255-050-0011, 255-050-0012, 255-050-0013, 255-050-0015, 255-050-0025

REPEAL:

Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

Renumber and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

DIV 15: ORS 183.335, 192.410-505, 144.025(3), 144.050
DIV 40 & 50: ORS 137.700, 144.025, 144.050, 144.110, 141.10(3), 144.122, 144.123, 144.125, 144.126, 144.130, 144.135, 144.140, 144.223, 144.226, 144.780, 161.610, 163.115
Stat. Auth.: ORS

None
Other Authority

None
Stats. Implemented: ORS

RULE SUMMARY

DIV 15: To establish effective and efficient procedures for the management and disclosure of offender/inmate records and files in conformity with ORS 192.410-505. The Board finds that following permanent rule making process, rather than taking this temporary rulemaking action, will result in serious delay of being in full compliance with the Oregon Public Records Law.

The current rule omits certain exemptions allowed under Oregon Public Records Law and may be read as waiving those exemptions. This would result in mandating disclosure of documents in circumstances where the public interest favors confidentiality or would suffer by the disclosure. The current rule also appears to mandate disclosure of pre-sentence investigation reports in some instances, in violation of ORS 137.077.

DIV 40 & 50: Changed Prisoner" and "Offender" to "inmate to be consistent with all Board Administrative Rules and Department of Corrections Administrative Rules. Also, amended rules to clarify the Board of Parole & Post-Prison Supervision's authority to grant early releases or reductions for a severe medical condition or for incapacitated elderly people.

Diene M. Res

Authorized Signer

01-15-99
Date

* Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.

**The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of The Proposed Amendments	)	Statutory Authority,
of Rules of the Board of Parole & Post-Prison	)	Statutes Implemented,
Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 183.335, 192.410-505, 144,025(3), 144.050

Other Authority: None

Statutes Implemented: ORS None

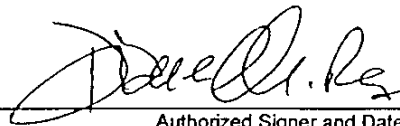
Need for the Rule(s): The Oregon Department of Justice has advised the Board that the current OAR 255-015 does not conform to ORS 192.410-505 (Public Records Law). The Board receives requests for public records on a frequent basis. These proposed amendments will allow the Board to respond to these requests in conforming with ORS 192.410-505.

Documents Relied Upon: ORS 192.410-505; Memo from Assistant Attorney General, Department of Justice.

Fiscal and Economic Impact: We are not aware of any fiscal or economic effect these rules may have on the Board, or other agencies, local government, and the identified public.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The Board of Parole & Post-Prison Supervision enacted these rules and changes during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.



Authorized Signer and Date

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Agency and Division
Number

Administrative Rules Chapter

In the Matter of The Proposed Amendments of Rules of The Board of Parole & Post-Prison Supervision.))))))))))	Statutory Authority, Statutes Implemented, Statement of Need, Principal Documents Relied Upon, Statement of Fiscal Impact
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Statutory Authority: ORS 137.700, 144.025, 144.050, 144.110, 14.120(3), 144.122, 144.123, 144.125, 144.126, 144.130, 144.135, 144.140, 144.223, 144.226, 144.780, 161.610, 163.115.

Other Authority: None

Statutes Implemented: ORS None

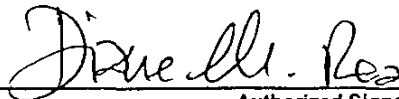
Need for the Rule(s): To make the rules consistent with the definitions as they appear in other rules by the Board of Parole & Post-Prison Supervision. Also, to clarify the Board of Parole & Post-Prison Supervision's authority to grant early releases or reductions for a severe medical conditions or for incapacitated elderly people.

Documents Relied Upon: None.

Fiscal and Economic Impact: We are not aware of any fiscal or economic effect these rules may have on the Board, or other agencies, local government, and the identified public.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The Board of Parole & Post-Prison Supervision enacted these rules and changes during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.



Authorized Signer and Date

10-14-98

DIVISION 15

**REQUEST FOR BOARD RECORDS OR FILES
ORS 144.120(7), 144.130, 144.185, 192.001-505**

Board Records
255-015-0002

The Board shall maintain a separate file on each person under its jurisdiction which shall contain the materials obtained pursuant to ORS 144.185.

History: (12/2/86, temporary; 4/28/87; 5/19/88; 10/9/92; temporary 10/14/98, 1/15/99)

Oral Record of Hearing
255-015-0003

A tape of the oral proceedings of any hearing shall be kept by the Board for at least two years.

History: (12/2/86, temporary; 4/28/87; 5/19/88; temporary 10/14/98, 1/15/99)

Obtaining Information from Board Records
255-015-0005

- (1) Any interested party may apply for information from a selected record.
- (2) The request must be in writing, addressed to the chairperson of the Board and must specify the information requested.
- (3) The chairperson or designee shall review the record to determine what may be disclosed in accordance with OAR 255-015-0010, and within ten (10) working days shall advise the person or agency whether the requested information is available and may be disclosed.

History: (5/31/85; 12/2/86, temporary; 4/28/87; 5/19/88; 11/1/89; 10/9/92;
temporary 10/14/98, 1/15/99)

Criteria for Denial of Disclosure of Records
255-015-0010

- (1) The Board shall disclose its records to any person or agency unless:
 - (a) Disclosure would interfere with the rehabilitation of the inmate/offender, *and* the public interest in confidentiality clearly outweighs the public interest in disclosure; or
 - (b) Disclosure would substantially prejudice or prevent the carrying out of the functions of the Board or the Department of Corrections, *and* the public interest in confidentiality clearly outweighs the public interest in disclosure; or.

(5) The Board shall deposit payments in the Miscellaneous Receipts account in accordance with Business Office instructions.

History: (5/31/85; 12/2/86, temporary; 4/28/87, 5/19/88; 10/9/92, temporary 10/14/98, 1/15/99)

Victim and District Attorney Access to Board Review Packet
255-15-020

History: (4/28/87; 5/19/88, repealed)

Contents of Board Review Packet
255-15-030

History: (1/12/87; 5/19/88, repealed)

DIVISION 40

PERSONAL REVIEWS AND REDUCTIONS IN PRISON TERMS

Scheduling of Personal Reviews

255-040-0005

- (1) The Board may reduce an established prison term, as defined in OAR 255-005-0005, after a personal review.
- (2) The Board may conduct personal reviews every three years for those inmates whose crimes were committed prior to November 1, 1989. The review period shall begin on the original adjusted commitment date on an uninterrupted period of incarceration.
- (3) Inmates with an established prison term of 36 months or less may be eligible for a personal review after they have served at least six months of their established prison term within a Department of Corrections institution.
- (4) The Board will only conduct a personal review after it has received a positive recommendation for a reduction in the prison term from the Department of Corrections.
- (5) Inmates sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board denied are not subject to personal reviews. Dangerous offenders may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections, if the Board has found their condition absent or in remission and has set a parole release date.
- (6) After the Department of Corrections sends a recommendation, the Board may accept another recommendation for the period under review.

Statutory Authority: ORS 144.122, 144.226

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary; 5/19/88; 10/4/88, temporary; 12/6/88; 11/1/89; 7/1/90; 1/13/92; 7/22/92, temporary; 10/9/92, notice 10/14/98, 1/15/99)

Procedure for Personal Reviews

255-040-0010

- (1) A panel or the Full Board shall conduct personal review hearings pursuant to OAR 255-030-0015.
- (2) The Board may conduct personal reviews administratively.

Statutory Authority: ORS 144.025

History: (2/1/79; 5/31/85; 11/13/87, temporary; 12/2/86, temporary; 7/1/90; 1/13/92, notice 10/14/98, 1/15/99)

Purpose
255-40-015

History: (2/1/79; 5/31/85, repealed)

Reopening Cases: When; What is Necessary
255-40-020

History: (2/1/79; 5/20/80; 2/15/81; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88, repealed)

Less Than 36 Month Prison Term Reductions
255-040-0023

- (1) By letter of agreement, the Board may authorize the Department of Corrections to apply the same criteria and percentage reductions to an offender's prison term as the Department applies to offenders earning credit toward their determinate sentences under Sentencing Guidelines' rules. The authorization shall apply only to offenders:
 - (a) with an established prison term of 36 months or less; and
 - (b) who have served at least six months in Department of Correction's custody; and
 - (c) who display an extended course of conduct indicating outstanding reformation.
- (2) If the Department of Corrections recommends an earned credit reduction under this rule, the Board may administratively adjust the prison term when the Department of Corrections notifies the Board that credit has been earned.
- (3) The Board shall apply the criteria listed in OAR 255-040-0025(2).
- (4) If the Board previously upheld a judicially ordered minimum sentence, the Board shall not reduce the prison term to less than the minimum sentence except as provided by OAR 255-040-0028.
- (5) Inmates serving sanctions for parole violations are not eligible for a reduction.
- (6) If the Board previously ordered parole release postponement pursuant to ORS 144.125(3), the inmate is not eligible for a reduction.

Statutory Authority: ORS 144.122, 144.780
History: (7/22/92, temporary; 10/9/92, notice 10/14/98, 1/15/99)

Resetting the Parole Release Date to an Earlier Date
255-040-0025

- (1) For inmates with an established prison term greater than 36 months who demonstrate an extended course of conduct indicating outstanding reformation, the Board may grant a reduction of up to seven months for each three year period under review. The inmate shall first serve the three year period before the Board will review it.
- (2) The purpose of a personal review hearing shall be to determine:
 - (a) whether continued incarceration is cruel and inhumane;
 - (b) whether resetting the release date to an earlier date is compatible with the best interests of the inmate and society; and
 - (c) whether the inmate's progress indicates outstanding reformation so as to warrant a reduction in the prison term under the following criteria:
 - (A) the individual merits of each case;
 - (B) the seriousness of the crime;
 - (C) the protection of the public;
 - (D) demonstrable achievement in dealing with problems present at the time of incarceration and associated with criminal conduct (e.g., psychological disorder, drug or alcohol dependency, lack of educational or vocational skills);
 - (E) documented cooperation with authorities while in custody where a substantial benefit is derived by the authorities; and
 - (F) the absence of disciplinary actions resulting from violation of rules within the review period.
 - (d) that appropriate supervision and services are available for the particular inmate and to order supervision conditions.

Statutory Authority: ORS 144.122, 144.126
History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85; 4/4/88, temporary;
5/19/88; 12/6/88; 7/1/90; 7/22/92, temporary; 10/9/92; 10/29/93,
notice 10/14/98, 1/15/99)

Effect of Minimum Terms on Reductions
255-040-0026

- (1) If the inmate has a judicial minimum sentence greater than 36 months, which the Board previously upheld pursuant to ORS 144.110 or ORS 163.115, the Board must overturn the minimum before it can grant a reduction from the previously established term.
- (2) If the inmate has a mandatory minimum sentence pursuant to ORS 161.610, the Board cannot grant a reduction below the mandatory minimum sentence and the statutory reduction for good time, except as provided in OAR 255-040-0028.

Statutory Authority: ORS 144.122, 144.126, 144.110, 163.115, 161.610

History: (4/4/88, temporary; 5/19/88; 10/15/91; 10/9/92, notice 10/14/98, 1/15/99)

Special Request Reductions
255-040-0027

- (1) Upon the institution superintendent and Director of the Department of Correction's special request for a reduction in the prison term, a Board majority may schedule a hearing or may consider the request administratively.
- (2) The criteria for a special request reduction shall be:
 - (a) demonstrated outstanding reformation using the criteria in OAR 255-040-0025(3); and
 - (b) documented cooperation with authorities contributed significantly to the safety and security of the facility; or
 - (c) cooperation with law enforcement officials results in the apprehension, interruption and conviction of persons involved in significant ongoing criminal activity.
- (3) The inmate shall have the burden of establishing that his/her conduct meets the criteria for any reduction under consideration.
- (4) The Board shall have discretion to reduce the prison term by the number of months it finds the behavior merits that is also compatible with the health and safety of the offender and the community.

Statutory Authority: ORS 144.122, 144.126

History: (7/1/90; 1/13/92; 10/9/92, notice 10/14/98, 1/15/99)

Reductions for a Severe Medical Condition or Incapacitated Elderly Person
255-040-0028

- (1) Except as provided in subsections (3) and (4) of this rule, the Board may consider reductions in prison terms when any inmate, regardless of whether they committed their crime before or after November 1, 1989, is suffering from a severe medical condition or is elderly and is permanently incapacitated and is unable to move from place to place without the assistance of another. The following information must accompany a request for reduction:
 - (a) a medical authority's report, which attests to validity of the condition with reasons why continued incarceration would be cruel and inhumane; and
 - (b) the institution superintendent's recommendation; and
 - (c) the Department of Corrections Director's recommendation regarding whether resetting the release date to an earlier date is compatible with the best interests of the inmate and society; and
 - (d) the Governor's commutation for those sentenced to life in prison or death for aggravated murder.
- (2) If a hearing may threaten the health and safety of the inmate or the Board, the Board shall consider the reduction administratively and may grant it upon an affirmative majority vote.
- (3) For inmates sentenced under Ballot Measure 11 (ORS 137.700), the Board has no authority to grant an early release due to a medical condition.
- (4) For inmates who committed their crime(s) after June 12, 1997, if the sentencing order states that the inmate is not entitled to any form of early release, the Board has no authority to grant an early release date due to a medical condition. If a sentencing order states that the inmate is eligible for early release, the Board may grant an early release due to a medical condition as provided in this rule.

Statutory Authority: ORS 144.122, 144.126, 161.610
History: (4/8/88, temporary; 5/19/88; 11/1/89; 7/1/90; 10/15/91; 10/29/93,
notice 10/14/98, 1/15/99)

Who May Appear
255-40-030

History: (2/2/79; 5/31/85, repealed)

Notice; Disclosure; Record
255-040-0035

The notice, disclosure, and record making provisions of Division 30 shall apply to all hearings, and reviews granted under this Division.

Statutory Authority: ORS 144.120(3) & (7), 144.122, 144.123, 144.126, 144.130, 144.135
History: (2/1/79; 4/4/88, temporary; 5/19/88, notice 10/14/98, 1/15/99)

Personal Review Packets
255-040-0040

The Personal Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psychological evaluations (last 6 months);
- (4) recommendation to reset the release date to an earlier date;
- (5) correspondence;
- (6) field parole analysis report or report of similar content; and
- (7) court orders.

Statutory Authority: ORS 144.120(3), 144.122, 144.123, 144.126, 144.130, 144.135
History: (4/4/88, temporary; 5/19/88; 11/1/89, notice 10/14/98, 1/15/99)

DIVISION 50

POSTPONING A PAROLE RELEASE DATE FOR SERIOUS MISCONDUCT

This Division is applicable to Prisoner's Who
Committed Crimes Prior to November 1, 1989

255-050-0005

Grounds for Postponing a Parole Release Date

- (1) The Board shall postpone an inmate's scheduled release date according to the procedures set forth in OAR 255-050-0010, if it finds that the inmate engaged in serious misconduct during confinement.
- (2) The Board may postpone an inmate's scheduled release date upon:
 - (a) a report of serious misconduct and a recommendation for an extension of the prison term from the Director of the Department of Corrections or designee;
 - (b) reasonable grounds to believe an inmate has violated a law or engaged in serious misconduct; or
 - (c) the refusal of an inmate to participate in a Board ordered psychiatric or psychological evaluation pursuant to ORS 144.223.
 - (d) notification of unauthorized absence.
- (3) If serious misconduct occurs before the Board has established an inmate's prison term and the conduct justifies an extension of the prison term, the Board shall add the time for misconduct to the prison term when the Board establishes the prison term.
- (4) If serious misconduct occurs after the Board has established a prison term and the conduct may justify an extension of the prison term the Board may rescind the parole release date and order a postponement hearing to consider extending the prison term.

Statutory Authority: ORS 144.125, 144.223

History: (2/1/79; 5/31/85; 5/19/88; 7/1/88; 11/1/89; 10/9/92; 10/29/93, 03/14/97,
notice 10/14/98, 1/15/99)

Postponement Procedures: Hearing by Board

255-050-0010

- (1) When the Board conducts a parole postponement hearing, the following procedure shall apply:
 - (a) the Board shall give the inmate notice of the hearing and its purpose; the provisions of Division 30 as to appearance, disclosure, and record shall apply except:
 - (b) an inmate may not waive his/her right to appear;

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Serious Misconduct

- (c) an inmate may not relitigate facts which the institution hearings officer has found at the disciplinary hearing.
- (2) If the Board finds serious misconduct, it may be classified within one of the following four categories and the Board may extend the prison term as provided in Exhibit G:
 - (a) hazard to human life or health;
 - (b) hazard to security;
 - (c) hazard to property; or
 - (d) third in a series of rule violations within a three month period, while assigned to any Department of Corrections program.
 - (3) The Board may request another hearing before the disciplinary committee originating the recommendation for extension, or choose not to extend a prison term if the Board finds that other disciplinary options are adequate for the seriousness of the misconduct, considering the factors found in OAR 255-050-0011.
 - (4) The Board may continue the postponement hearing and order a psychiatric or psychological examination when it appears that a severe emotional disturbance may be present. If a psychiatrist or psychologist makes a diagnosis of present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may defer release to a specified future date. When deciding not to set a parole release date, the Board shall apply OAR 255-035-0030.
 - (5) A panel shall decide cases when a parole release date is extended for less than two years, unless OAR 255-030-0015 previously designated it a Full Board case.
 - (6) When the recommended extension of the prison term exceeds the inmate's statutory good time date or the sentence expiration date, the Board may extend the prison term up to two days less than the good time date or expiration date.
 - (7) If the Board extends the prison term, the Board shall give the inmate:
 - (a) The final order, including a written statement of the category of misconduct, if applicable, the facts and specific reasons for the decision, including the Board members' individual votes; and
 - (b) Notice of the right to administrative appeal pursuant to Division 80.

Statutory Authority: ORS 144.125, 144.223

History: (2/1/79; 5/31/85; 5/19/88; 11/1/89; 10/9/92, 03/14/97, notice 10/14/98, 1/15/99)

Department of Corrections Report of Misconduct
255-050-0011

- (1) The Director of the Department of Corrections or designee may recommend an extension of an inmate's parole release date as a disciplinary sanction.
- (2) The following guidelines shall apply to a recommendation to extend a prison term:

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Serious Misconduct

- (a) The Department shall have provided the inmate an opportunity for a Department of Corrections disciplinary hearing, and found the inmate to have violated a rule governing prohibited inmate conduct: and
 - (b) The Department shall not recommend an extension of a prison term unless all other disciplinary options have been specifically considered and deemed, individually and in combination, inadequate for the seriousness of the misconduct.
- (3) The Department shall consider the following factors in determining whether an extension is appropriate:
- (a) effectiveness of the sanction as a disciplinary measure, both to the prisoner and to the general prison population;
 - (b) degree of hazard posed to human health or life, facility security, or to property;
 - (c) seriousness of the misconduct had it been committed in the wider community;
 - (d) circumstances of the misconduct; and
 - (e) the inmate's prior record or institutional conduct.
- (4) The Board of Parole and Post-Prison Supervision shall not extend a prison term on a recommendation from the institution unless the recommendation classifies the misconduct within one (1) of the following four (4) categories:
- (a) hazard to human life or health;
 - (b) hazard to security;
 - (c) hazard to property; or
 - (d) third in a series of rule violations within a three month period, while assigned to any Department of Corrections program.

Statutory Authority: ORS 144.125, 144.223
History: (11/1/89; 10/9/92, 03/14/97, 1/15/99)

Postponement When Informed of Reasonable Grounds
255-050-0012

- (1) The Board may rescind the parole release date when the Board is informed of reasonable grounds to believe that an inmate has violated a law or has engaged in serious misconduct. A fact-finding hearing shall be held by a Department of Corrections hearings officer to determine if the law violation or misconduct occurred. However, if the inmate has received an additional sentence to the Department of Corrections custody, no hearing is required.

Statutory Authority: ORS 144.125, 144.223
History: (11/1/89, 03/14/97)

**Postponement for Refusing to Participate in a Psychiatric
or Psychological Evaluation**
255-050-0013

- (1) The Board may postpone a parole release date until a specified future date when an inmate has refused to participate in a psychiatric or psychological evaluation, which the Board ordered pursuant to ORS 144.223, prior to the inmate's release on parole.
- (2) When the Board rescinds a parole release date under this section, the Board shall conduct a hearing to postpone the inmate's release date.
- (3) The Board may postpone the parole release date up to two days before the inmate's good time date.

Statutory Authority: ORS 144.050, 144.140, 144.125, 144.223
History: (5/19/88; 11/1/89; 1/13/92; 10/9/92, 03/14/97, NOTICE 10/14/98,
1/15/99)

Unauthorized Absence
255-050-0015

- (1) The parole release date of an inmate who is on unauthorized absence from a correctional facility shall be rescinded automatically. The Board may schedule a hearing when the inmate is available or the Board may administratively reset the parole release date by adding the inoperative time to the prison term.
- (2) The Board or its designee shall add the inoperative time to the prison term in the following manner:
 - (a) If the unauthorized absence occurs prior to the parole release date and the inmate returns to custody of the Department of Corrections after the parole release date:
 - (A) Count the first day of unauthorized absence and every day up to the parole release date.
 - (B) Add the total number of days determined in (A) of this subsection to the date of return to the Department of Corrections' custody following a hold in another in-state or out-of-state jurisdiction.
 - (b) If the unauthorized absence occurs prior to the parole release date and the inmate returns to the Department of Corrections' custody prior to the parole release date:
 - (A) Count the first day of unauthorized absence and every day up to the date of return to the Department of Corrections following a hold in another in-state or out-of-state jurisdiction.
 - (B) Add the total number of days determined in (A) of this subsection to the previous parole release date.

- (c) If the Board deferred the initial parole release date to a specific future date that specific future date shall be used for purposes of calculations pursuant to section (2) of this rule.

Statutory Authority: ORS 144.125, 144.223

History: (2/1/79; 2/15/81; 11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 12/6/88; 11/1/89; 10/9/92, 03/14/97, NOTICE 10/14/98, 1/15/99)

Postponement Procedure: Unauthorized Absence; Law Violation
255-050-0016

History: (11/25/81, temporary; 5/19/82; 5/31/85; 5/19/88; 11/1/89, repealed)

Waiver
255-050-0017

History: (11/25/81, temporary; 5/19/82; 5/31/85, repealed)

Hearing After Rescission of Parole
255-050-0018

History: (11/25/81, temporary; 5/19/82; 5/31/85, repealed)

Basis for Rescission
255-050-0020

History: (2/1/79; 11/25/81, temporary; 5/19/82; 5/31/85, repealed)

Misconduct Board Review Packet
255-050-0025

The Misconduct Board Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing;
- (3) psychological evaluations;
- (4) disciplinary report from the institution;
- (5) correspondence;
- (6) field parole analysis report;
- (7) court orders;
- (8) PSI, PSR, PAR or document of similar content;
- (9) DOC hearings officer's findings and recommendations.
- (10) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.125, 144.223

History: (5/19/88; 11/1/89, 03/14/97)

1/15/99

Serious Misconduct

PERMANENT ADMINISTRATIVE RULES

if that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 01-15-99 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address

to become effective 01-15-99 Rulemaking Notice was published in the 12-01-98 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

Handwritten: 255-070-0003
255-070-0015
MRW OAR 255-060-0008; 255-065-0005; 255-070-0001 ~~-0015~~; 255-075-0002;
255-075-0004

General Condition 5 of Exhibit J amended to include sentence: "Offender automatically waives extradition if offender absconds supervision out of State."

REPEAL:

Number: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

FILED

JAN 15 1999

ARCHIVES DIVISION
DEPT. OF STATE

144.102, 144.270, 144.275
Stat. Auth.: ORS
None
Other Authority
None
Stats. Implemented: ORS

RULE SUMMARY

Amended Exhibit to add as a general condition of Parole and Post-Prison Supervision, that an offender automatically waives extradition if he/she absconds supervision out of State.

Handwritten Signature: Diane M. Res

Handwritten Date: 01-15-99

Authorized Signer

Date

* Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.

**The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Agency and Division

Administrative Rules Chapter Number

In the Matter of the Proposed Amendments	)	Statutory Authority,
of the rules of the Board of Parole and	)	Statutes Implemented,
Post-Prison Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 144.102, 144.270, 144.275

Other Authority: None

Statutes Implemented: ORS None

Need for the Rule(s): To reduce the amount of time spent in custody in an out of State facility and to simplify the procedure of returning the offender back to Oregon.

Principal Documents Relied Upon: None

Fiscal and Economic Impact: There may be a positive fiscal and economic impact in that there will be a reduction in monies needed to litigate with those offenders who may fight extradition.

Administrative Rule Advisory Committee consulted?: The Board of Parole & Post-Prison Supervision enacted these changes during a business meeting and due to the nature of the amendments felt it was not necessary to consult the Administrative Rule Advisory Committee.

If not, why?:

 11-9-98

Authorized Signer and Date

EXHIBIT J

(ORS 144.102, 144.270, 144.275
OAR 255-060-0008, 255-065-0005, 255-070-0001-0015, 255-075-0002, 255-075-0004)

GENERAL/SPECIAL PAROLE AND POST-PRISON SUPERVISION CONDITIONS

Parole/Post-Prison Supervision is subject to all listed General Conditions and the designated Special Conditions. Prior to release the Board may modify the conditions at any time. After parole/post-prison supervision has commenced, conditions may be added upon your signed consent or after opportunity to be heard, orally or in writing.

Parole may be revoked for violation of any of these conditions and/or you may be returned when parole is not in your best interest or the best interest of society.

The Board may, at it's discretion, sanction violations of Post-Prison Supervision Conditions; sanctions may include returning you to the Department of Corrections custody.

As used in this exhibit, the following words have the following meanings: "Offender" means persons released to parole or post-prison supervision. "Parole Officer" shall also mean the supervisory authority under the post-prison supervision system.

GENERAL CONDITIONS

1. Pay supervision fees, fines, restitution or other fees ordered by the Board.
2. Not use or possess controlled substances except pursuant to a medical prescription.
3. Submit to testing of breath or urine for controlled substance or alcohol use if the offender has a history of substance abuse or if there is a reasonable suspicion that the offender has illegally used controlled substances.
4. Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
5. Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency. Offender automatically waives extradition if offender absconds supervision out of State.
6. If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both.
7. Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.
8. Permit the supervising officer to visit the offender or the offender's residence or work site, and report as required and abide by the direction of the supervising officer.

9. Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.
10. Obey all laws, municipal, county, state and federal.
11. Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
12. Not possess weapons, firearms, or dangerous animals.

SPECIAL CONDITIONS

1. Offender shall be evaluated by a mental health evaluator and follow all treatment recommendations.
2. Offender shall continue to take any psychiatric or psychotropic medication that was prescribed prior to or at the time of release from custody until otherwise directed by a physician. At the direction of the parole officer, the offender shall undergo a psychiatric evaluation and take any medications recommended. The offender shall comply with a medication monitoring program at the request of the parole officer.
3. Offender shall have no contact with minor females and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades) without prior written approval from their supervising officer.
4. Offender shall have no contact with minor males and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades) without prior written approval from their supervising officer.
5. Offender shall submit to random polygraph tests as part of a sex offender surveillance program. Failure to submit to the tests may result in return to custody. Specific responses to the tests shall not be the sole basis for return to custody.
6. Offender shall enter and complete or be successfully discharged from a recognized and approved sex offender treatment program which may include polygraph and/or plethysmograph testing and a prohibition on possession of printed, photographed or recorded materials that the offender may use for the purpose of deviant sexual arousal.
7. Offender shall pay court ordered restitution to the clerk of the court of the county of sentencing (ORS 137.106, OAR 255-065-0005).
8. (Deleted 09/14/98)
9. Offender shall not possess or use intoxicating beverages.
10. Other: Special conditions may be imposed that are not listed above when the Board of Parole and Post-Prison Supervision determines that such conditions are necessary.
11. Offender shall have no contact direct or indirect with those listed below:

EF

S 18-99

PERMANENT ADMINISTRATIVE RULES

ify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 05-17-99 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address
to become effective 05-18-99 Rulemaking Notice was published in the 02-21-99 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Exhibits P-1, P-ii, P-III (OAR 255-032-0011)

AMEND:
255-032-0005, 255-032-0010, 255-032-0015, 255-032-0020

REPEAL:
number: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.
Amend and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

144.110(2)(b), 163.105(1), 161.620(1994), 144.780
Stat. Auth.: ORS
Oregon Attorney General Letter dated October 12, 1994
Other Authority
None
Stats. Implemented: ORS

FILED
MAY 18 1999
ARCHIVES DIVISION
SECRETARY OF STATE

RECEIVED
MAY 18 1999
ARCHIVES DIVISION
SECRETARY OF STATE

RULE SUMMARY

Amends Division 32 to provide a matrix for setting prison terms for juveniles who were 17 years old when they were remanded and convicted of Aggravated Murder that was between November 1, 1989, and April 1, 1995.

Diane M. Kes 5/18/99
Authorized Signer Date

* Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
**The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of Amendments and Adoption	)	Statutory Authority,
of Rules of the Board of Parole and	)	Statutes Implemented,
Post-Prison Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 144.110(2)(b), 163.105(1), 161.620 (1994), 144.780

Authority: Oregon Attorney General Opinion Letter dated October 12, 1994

Statutes Implemented: ORS None

Reason for the Rule(s): The Board of Parole & Post-Prison Supervision proposed amendments of Chapter 255, Division 32 to create a matrix for setting prison terms for juveniles who were under 17 years old when they were remanded and convicted of Capital Murder that was committed between November 1, 1989 and April 1, 1995.

Statutes Relied Upon: Oregon Attorney General Opinion Letter dated October 12, ~~1992~~ ¹⁹⁹⁴

RECEIVED
1999 JAN 21 PM 2
BOARD OF PAROLE

Fiscal and Economic Impact: We are not aware of any fiscal or economic affect these rules may have on the Board, other agencies, Local Government, and the identified public.

Administrative Rule Advisory Committee consulted?: Yes. The Board of Parole & Post-Prison consulted with its Advisory Commission on Prison Terms and Parole Standards regarding the amendments to these rules.

If not, why?:

Diane M. Res

Authorized Signer and Date

01-15-99

DIVISION 32

**AGGRAVATED MURDER
ORS 163.105**

Prison Term Hearing to be Held
255-032-0005

- (1) An adult person convicted of Aggravated Murder under ORS 163.095 shall receive a hearing within one year of sentencing. At the hearing the Board shall set a review date congruent with the minimum terms set forth in OAR 255-032-0010 rather than a parole release date.
- (2) Adult persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.
- (3) Adult persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Corrections' custody for a crime other than aggravated murder.
- (4) Inmates, who were juveniles and waived to adult court pursuant to ORS 419C.340 through 419C.364, and were under the age of 17 years at the time of their crime(s), and were convicted of Aggravated Murder, per ORS 163.095, and whose crimes were committed after October 31, 1989 and prior to April 1, 1995, shall receive a prison term hearing. At the hearing, the Board shall set a review date consistent with the terms set forth in OAR 255-032-0011 rather than a projected parole release date.

History: (5/31/85; 11/1/89; 1/16/91; 10/9/92; 5/18/99)

Minimum Period of Confinement Pursuant to ORS 163.105
255-032-0010

- (1) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(1) shall be thirty (30) years.
- (2) The minimum period of confinement for an adult person convicted of Aggravated Murder as defined by ORS 163.105(2) prior to December 6, 1984, shall be twenty (20) years.

History: (5/31/85; 5/19/88, 5/18/99)

255-032-0011
Schedule of Initial Parole Consideration for Inmates Described in OAR 255-032-0005(4)

- (1) The Board shall conduct a hearing pursuant to OAR 255-030-0013, 255-030-0015, 255-030-0021, 255-030-0023 and 255-030-0025 through -0055.
- (2) The Board shall set a review date pursuant to Exhibit P-III, or deny parole, pursuant to OAR 255-035-0030.

05-18-99

Aggravated Murder

- (3) The method established by sections (1) to (3) of OAR 255-035-0021 shall not apply to inmates described in OAR 255-032-0005(4). To determine the unified range for inmates described in OAR 255-032-0005(4) with consecutive sentences for aggravated murder, the Board shall establish the matrix range for each crime by using the inmate's history/risk score pursuant to Exhibit P-III. The unified range shall be the sum of the ranges established under this section.
- (4) The Board may depart from the appropriate matrix range for inmates described in OAR 255-032-0005(4) only upon making a specific finding that there is aggravation or mitigation which justifies departure from the range pursuant to Exhibits E-1 and E-2. The Board shall clearly state on the record the facts and specific reasons for its finding. The Board may give items of aggravation and mitigation different weight and not necessarily balance them one for one. Exhibit D does not apply to inmates described in OAR 255-032-0005(4). The Board cannot apply aggravating or mitigating factors to adjust an inmate's matrix range more than one level up or down. Mitigating factors cannot reduce an inmate's matrix range below the lowest possible range on the matrix.
- (5) If the Board denies parole, the inmate may petition for review after 480 months from the adjusted inception date. If the Board determines, following a review of the inmate's petition and institutional record, there is reasonable grounds to believe that rehabilitation may have occurred and that the possibility of parole should be considered, a review hearing shall be scheduled.
- (6) If the Board sets a review date pursuant to Exhibit P-III, the Board shall conduct a progress review five years prior to the established review date. The progress review does not require a hearing with the inmate; however, the inmate may submit materials to be considered. The purpose of the progress review is to determine the inmate's institutional conduct and rehabilitation efforts since the prison term hearing.
- (7) The Board may determine a parole release date or future review dates any time after the established review date. The Board may order a psychological evaluation. Refusal to submit to an evaluation if one is ordered will be grounds for automatic deferral of the hearing for up to five years or a lesser time if deemed appropriate by the Board. If parole was previously denied, that decision will remain in effect and further petitions for review will not be considered at less than two (2) year intervals.
- (8) At the review hearing, the Board will consider, but is not limited to, the following:
 - (a) the inmate's involvement in correctional treatment, medical care, educational, vocational or other training in the institution which will substantially enhance his/her capacity to lead a law-abiding life when released;
 - (b) the inmate's institutional employment history;
 - (c) the inmate's institutional disciplinary conduct;
 - (d) the inmate's maturity, stability, demonstrated responsibility, and any apparent development in the inmate's personality which may promote or hinder conformity to law;

Purpose of Review Hearing
255-032-0020

- (1) The sole issue of the hearing described in OAR 255-032-0015 shall be to determine whether or not the inmate is likely to be rehabilitated within a reasonable period of time. Criteria indicating whether the inmate is likely to be rehabilitated prior to release include:
- (a) the inmate's involvement in correctional treatment, medical care, educational, vocational or other training in the institution which will substantially enhance his/her capacity to lead a law-abiding life when released;
 - (b) the inmate's institutional employment history;
 - (c) the inmate's institutional disciplinary conduct;
 - (d) the inmate's maturity, stability, demonstrated responsibility, and any apparent development in the inmate personality which may promote or hinder conformity to law;
 - (e) the inmate's past use of narcotics or other dangerous drugs, or past habitual and excessive use of alcoholic liquor;
 - (f) the inmate's prior criminal history, including the nature and circumstances of previous offenses;
 - (g) the inmate's conduct during any previous period of probation or parole;
 - (h) the inmate does/does not have a mental or emotional disturbance, deficiency, condition or disorder predisposing them to the commission of a crime to a degree rendering them a danger to the health and safety of the community;
 - (i) the adequacy of the inmate's parole plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood or community in which the inmate plans to live;
 - (j) there is a reasonable probability that the inmate will remain in the community without violating the law, and there is substantial likelihood that the inmate will conform to the conditions of parole.

History: (5/31/85; 10/29/93; 5/18/99)

Manner of Review Hearing
255-032-0025

- (1) The Board shall conduct the proceeding in the manner prescribed for a contested case hearing under ORS 183.310 to 183.550 except that:
- (a) The inmate shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and

- (e) the inmate's past use of narcotics or other dangerous drugs, or past habitual and excessive use of alcohol;
- (f) the inmate's prior criminal history, including the nature and circumstances of previous offenses;
- (g) the inmate's conduct during any previous period of probation or parole;
- (h) the inmate does/does not have a mental or emotional disturbance, deficiency, condition or disorder predisposing them to the commission of a crime to a degree rendering them a danger to the health and safety of the community;
- (i) the adequacy of the inmate's parole plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood or community in which the inmate plans to live;
- (j) there is a reasonable probability that the inmate will remain in the community without violating the law, and there is substantial likelihood that the inmate will conform to the conditions of parole.

The decision for the Board shall be whether there are significant indications of reformation and rehabilitation such that the offender does not represent a risk to the community and that it is in the offender's and the community's best interest that he/she be released to the community under conditions of supervision.

If the Board does not make the above finding, the Board shall set a subsequent review hearing date not to exceed five (5) years from the present review.

History: (1/15/99, 05/18/99)

Petition/Purpose for Review Hearing
255-032-0015

An inmate not described in OAR 255-032-0005(4) may petition and the Board shall hold a hearing to determine whether the inmate is likely to be rehabilitated within a reasonable period of time:

- (1) Any time after twenty-five (25) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed on or after April 1, 1995; or
- (2) Any time after twenty (20) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(1) for an offense committed before April 1, 1995; or
- (3) Any time after fifteen (15) years from the date of imposition of a minimum period of confinement pursuant to OAR 255-032-0010(2).

History: (5/31/85; 5/19/88; 1/16/91, 03/01/97, 05/18/99)

- (b) If the inmate is without sufficient funds to employ an attorney, the inmate shall have the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$40 per hour and \$200 per case. The attorney shall send the Board a billing within 90 days of the hearing.
- (2) If upon hearing all the evidence, the Full Board upon a unanimous vote of all members finds that the inmate is capable of rehabilitation and that the terms of the inmate's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate's confinement to life imprisonment with the possibility of parole or work release and shall set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.
- (3) When an inmate has a consecutive sentence for a crime other than aggravated murder, the Board shall determine the prison term for the consecutive sentence(s) pursuant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a release date on the aggravated murder sentence established pursuant to ORS 163.105.

History: (5/31/85; 5/19/88; 11/1/89; 1/16/91; 5/1/91, temporary; 10/15/91; 10/29/93)

Effect of Denying Relief Request
255-032-0035

If the Board finds that the inmate is not capable of rehabilitation, the Board shall deny the relief sought in the inmate petition. Not less than two years after the denial the inmate may petition again for a change in the terms of confinement. Further petitions for a change may be made at intervals of not less than two years thereafter.

History: (5/31/85; 5/19/88, 03/01/97)

Record/Notice
255-032-0040

Provisions for maintaining a record of the hearings and providing notice of decision shall be those set forth in Divisions 15 and 30 of these rules.

History: (5/31/85)

**PROPOSED EXHIBIT P-I
 JUVENILE AGGRAVATED MURDER
 CRIMINAL HISTORY/RISK ASSESSMENT UNDER RULE 255-032-0011**

(A)	Age at First Contact with Juvenile Justice System:	
	16 or over:	0
	15:	1
	12-14:	2
	11 or under:	3 _____
(B)	History of Criminal Behavior:	
	No history of prior crimes:	0
	Adjudicated or convicted of minor property crimes:	1
	Adjudicated or convicted of major property crimes:	3
	Adjudicated or convicted of single person crime:	4
	Adjudicated or convicted of multiple person crimes:	6 _____
(C)	Prior Supervision Behavior:	
	No prior supervision:	0
	Technical violation during previous supervision	1
	Reoffended after previous supervision ended:	2
	Reoffended during previous supervision	3 _____
(D)	History of Drug or Alcohol Use:	
	No known use:	0
	Occasional Experimental use/No dependence:	1
	Regular use/Dependence/Serious disruption:	2 _____
(E)	History of Discipline at School:	
	Good adjustment/No known disciplinary problems:	0
	Minor disciplinary adjustments:	1
	Serious disciplinary issues:	2
	Expulsion from school:	3 _____

TOTAL HISTORY/RISK ASSESSMENT SCORE: _____

TOTAL RANGE: _____ ADJUSTED COMMITMENT DATE: _____

CRIME SEVERITY: _____ INSTITUTION NUMBER: _____

NAME: _____ SID#: _____

**EXHIBIT P-II
 JUVENILE AGGRAVATED MURDER
 CODING INSTRUCTIONS FOR CRIMINAL HISTORY/RISK ASSESSMENT
 OAR 255-032-0005**

These instructions address the application of the Criminal History/Risk Assessment scoring instrument in most circumstances. Invariably, situations will arise where judgment will have to be exercised. As a general rule, never add a point when genuine doubt exists and note such items. This instrument should be scored based on documented or recorded information whenever possible. To the extent reliable information can be obtained from other sources, it may also be used. Reliable information is information derived from any source upon which there is a reasonable basis to believe that it is accurate.

(A) Age at First Contact with Juvenile Justice System:

16 or over:	0
15:	1
12-14:	2
11 or under:	3

In general, the purpose of this item is to determine at what age the inmate began to have contact with juvenile authorities for violations of laws. "First contact with juvenile justice system" is defined as a delinquency or dependency petition filed in juvenile court alleging a delinquent act committed by the inmate. The term "delinquent act" means an act which if committed by an adult would constitute a crime in the state of Oregon. The inmate does not have to be found within the jurisdiction of the juvenile court in order for this item to apply. This item applies if a petition is filed.

Score 0 if the inmate had reached his/her 16th birthday before he/she had their first contact with the juvenile justice system.
 Score 1 if the inmate had reached 15th birthday, but was less than 16 years old.
 Score 2 if the inmate had reached 12th birthday, but was less than 15 years old.
 Score 3 if the inmate had not reached 12th birthday when first had contact with juvenile justice system.

(B) History of Criminal Behavior:

No history of prior crimes:	0
Adjudicated or convicted of minor property crime(s)	1
Adjudicated or convicted of major property crime(s)	3
Adjudicated or convicted of single person crime	4
Adjudicated or convicted of multiple person crimes	6

In general, the purpose of this item is to consider previous verified instances of criminal conduct. "Minor property crimes" are misdemeanor crimes involving property. "Major property crimes" are felony crimes involving property as defined in the Sentencing Guidelines. "Person crimes" are misdemeanor or felony crimes defined as person crimes under the Sentencing Guidelines. The term "adjudicated" means a finding in juvenile court that the inmate in fact committed an act which if committed by an adult would constitute a crime. "Conviction" refers to any criminal convictions in adult court (for cases in which the juvenile was remanded to adult court and convicted of a crime).

- Score 0 if there is no record of prior adjudication's or convictions.
 - Score 1 if inmate was adjudicated or convicted of any minor property crime(s).
 - Score 3 if inmate was adjudicated or convicted of any major property crime(s).
 - Score 4 if inmate was adjudicated or convicted of a single person crime.
 - Score 6 if the inmate was adjudicated or convicted of two or more person crimes.
-

(C) Prior Supervision Behavior

No prior supervision	0
Technical violation during previous supervision period	1
Reoffended after previous supervision period	2
Reoffended during previous supervision period	3

In general, the purpose of this item is to consider the inmate's behavior during and following a period of supervision such as probation or parole. "Supervision" means any term of court-ordered probation, parole or post-prison supervision as a result of any proceeding in juvenile or adult court. The term "reoffended" means an adjudication in juvenile court or conviction in adult court. "Technical violation" means the inmate did not comply with a condition of supervision other than new criminal behavior.

- Score 0 if the inmate has never been on any form of probation or parole in juvenile or adult court.
 - Score 1 if the inmate committed technical violation(s) during a previous supervision period.
 - Score 2 if the inmate committed the crime(s) of conviction within three (3) years of completion of a prior period of any form of probation or parole in juvenile or adult court.
 - Score 3 if the inmate committed crime of conviction while being supervised on any form of probation or parole in juvenile or adult court.
-

(D) History of Drug or Alcohol Use:

No known use	0
Occasional use/experimental use/no dependence	1
Regular use/dependence/serious disruption of life	2

In general, the purpose of this item is to consider the inmate's history of drug and/or alcohol use. "No use" is no history of use of drugs or alcohol. "Occasional use/experimental use/no dependence" is use without evidence of sustained use or dependence; use that satisfies curiosity; use that does not involve prolonged disruption in functioning. "Regular use/dependence/serious disruption to life" is use that is chronic, frequent or regular; use that is sustained over time; use that results in prolonged disruption of functioning.

- Score 0 if no known history of drug or alcohol use.
 - Score 1 if there is reliable information indicating occasional or experimental use but no dependence.
 - Score 2 if there is reliable information indicating regular use, dependence and/or use that results in serious disruption of the inmate's life.
-

(E) History of Discipline at School:

Good adjustment/No known disciplinary problems:	0
Minor disciplinary adjustments or problems:	1
Serious disciplinary adjustments or problems:	2
Expulsion from school:	3

In general, the purpose of this item is to consider the inmate's history of disciplinary problems in school. "Good adjustment" means no disciplinary problems in school and regular attendance. "Minor disciplinary adjustments or problems" means occasional problems with attendance, work effort, and minor disciplinary actions. "Serious disciplinary adjustments or problems" means habitual truancy and/or severe disciplinary actions such as suspension or expulsion. "Expulsion" means termination from enrollment in a school for disciplinary reasons.

Score 0 if the inmate has not had any disciplinary problems and there has been regular attendance.

Score 1 if the inmate has had occasional problems with attendance, work effort and/or minor disciplinary actions.

Score 2 if the inmate has had habitual truancy and/or severe disciplinary actions such as suspension or expulsion.

Score 3 if the inmate has been expelled from a school.

**EXHIBIT P-III
 JUVENILE AGGRAVATED MURDER
TIME TO BE SERVED UNDER DIVISION 032-0011 – CHAPTER 255
 OAR 255-032-0005(4), 255-032-0011**

(All Ranges in Categories A – C Shown in Months)

<u>CRIME SEVERITY RATING</u>	<u>CRIMINAL HISTORY/RISK ASSESSMENT SCALE</u>		
	00 – 05 Low	06 – 11 Moderate	12 - 17 High
LEVEL A	240-300	300-360	360-400
LEVEL B	300-360	360-400	400-480
LEVEL C	360-400	400-480	Life

CRIME SEVERITY SCALE

LEVEL A = Level of participation significantly less than co-defendant(s), if any; or documented cooperation with law enforcement authorities; or evidence of withdrawal, or lack of sustained criminal intent; or evidence of reduced responsibility or lack of mental capacity.

LEVEL B = Participated equally with co-defendant(s), if any; or crime involved multiple victims; or crime committed as a result of prejudice regarding status of victim (e.g., race, gender, religion, sexual orientation), or there was evidence of planning and premeditation, and evidence of concealing commission of the crime or concealing identity of victim.

LEVEL C = Was the instigator or facilitator between co-defendant(s), if any; or knew or had reason to know that victim(s) were particularly vulnerable (e.g., aged,, handicapped, very young); or personal involvement in similar criminal episodes or offenses, or crime involved torture or extreme violence.

Secretary of State
Certificate Order for Filing
PERMANENT ADMINISTRATIVE RULES

that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on _____ by the _____
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address

to become effective 05-18-99 Rulemaking Notice was published in the 04-01-99 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

REPEAL: 255-93-000, 255-93-010, 255-93-020, 255-93-030

FILED

MAY 18 1999

**ARCHIVES DIVISION
SECRETARY OF STATE**

ber. Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber. Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

ORS 144.310
Stat. Auth.: ORS

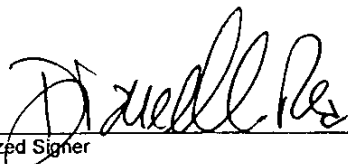
None
Other Authority

None
Stats. Implemented: ORS

RULE SUMMARY

The contents of Division 93 is contained in Division 94. Both Divisions address active and inactive parole and post-prison supervision.

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MAY 18 1999
ARCHIVES DIVISION
SECRETARY OF STATE

 _____
Authorized Signer Date

Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be filed to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Agency and Division

Administrative Rules Chapter Number

In the Matter of the Suspension
of Rules Related to the Supervised
and Unsupervised Parole & Post-
Prison Supervision.

)
)
)
)
)

Statutory Authority,
Statutes Implemented,
Statement of Need,
Principal Documents Relied Upon

Statutory Authority: ORS 144.310

Other Authority:

Statutes Implemented: ORS

Need for the Temporary Rule(s):

Documents Relied Upon:

Justification of Temporary Rule(s):

The Board of Parole and Post-Prison Supervision is permanently repealing Division 93 because its contents are contained in Division 94. The existence of Divisions 93 and 94 would only serve as a source of confusion as to which Division is most applicable.

Diane de Res 03-12-99

Authorized Signer and Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310

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IDIVISION 93

**SUPERVISED AND UNSUPERVISED PAROLE
AND POST-PRISON SUPERVISION
(ORS 144.310)**

Period of Supervised Parole or Post-Prison Supervision
255-93-000

- (1) The minimum periods of supervised parole and post-prison supervision shall be:
 - (a) six (6) months for crime categories 1, 2 and 3;
 - (b) twelve (12) months for crime categories 4, 5 and 6;
 - (c) eighteen (18) months for crime categories 7, 8, 9, 10 and 11.
- (2) The following minimum periods of supervised parole and post-prison supervision are an exception to section (1) of this rule:
 - (a) three (3) years for offenders sentenced as dangerous offenders under ORS 161.725 to 161.737;
 - (b) three (3) years for offenders sentenced for murder under ORS 163.115;
 - (c) three (3) years for offenders sentenced for aggravated murder under ORS 163.105; and
 - (d) offenders sentenced for sex offenses listed in ORS 144.103 shall serve supervised parole or post-prison supervision until the expiration of the sentence.
- (3) Upon revocation of supervision and rerelease back to the community or renewal of supervised parole status, the period of supervision shall be as provided in OAR 255-93-000(1 & 2) or to the expiration of the sentence, whichever is shorter.

Closing Summary
255-93-010

- (1) No sooner than thirty days prior to the expiration of the offender's minimum supervised parole or post-prison supervision period, the supervising officer may send to the Board a closing summary for offenders who have substantially fulfilled the supervision conditions. This summary shall include:
 - (a) an evaluation of the offender's compliance with supervision conditions;
 - (b) the status of the offender's court ordered monetary obligations, including fines and restitution, if any;
 - (c) the offender's employment status;
 - (d) the offender's address;
 - (e) treatment program outcome;
 - (f) any new criminal activity;

03/12/99 - Repeal

Supervised & Unsupervised Parole
& Post-Prison Supervision

- (g) a recommendation that the Board place the offender on unsupervised parole or post-prison supervision.
- (2) After reviewing the closing summary, if the Board or its designated representative finds the offender has substantially fulfilled the supervision conditions, the Board may order that the offender serve the remainder of the sentence on unsupervised parole or post-prison supervision. If the crime was committed prior to December 4, 1986, the Board may discharge the sentence. The Board shall send the offender notice of the change in status.
- (3) If the Board finds the offender has not substantially fulfilled the supervision conditions the Board may order continued supervised parole or post-prison supervision. The Board shall notify the offender and the supervising officer that supervision continues.
- (4) If the supervising officer decides not to send a closing summary, supervised parole or post-prison supervision shall continue until the expiration of the sentence or until the offender has substantially fulfilled the supervision conditions and the supervising officer and Board complete the procedures of sections (1) and (2) of this rule.

Renewal of Supervised Parole or Post-Prison Supervision
255-93-020

- (1) The Board may renew supervised parole when the Board receives notice of a new law violation; or
- (2) When the Board receives other information indicating that renewal of supervised parole or post-prison supervision may be warranted, the Board may cite the offender to a show cause hearing to determine whether or not supervision should be renewed.
- (3) After the show cause hearing, the Board shall notify the offender of its decision. If the Board decides to renew supervised parole or post-prison supervision, the Board shall notify the offender of the length of the renewed period of supervision and the reasons for renewal.
- (4) The length of a renewed supervision period shall be that as provided in OAR 255-93-000.

Sentence Expiration
255-93-030

- (1) During the pendency of violation proceedings, the running of the supervision period and the sentence is stayed and the Board retains jurisdiction over the offender until the proceedings are resolved. The Board may grant credit toward the sentence for time the offender serves incarcerated pending the violation proceedings.
- (2) These rules shall not preclude more than one extension or renewal of supervised parole or post-prison supervision, however an extension or renewal period may not exceed the maximum court ordered sentence.
- (3) After expiration of the sentence of an offender on parole or post-prison supervision, the Board shall send written notice of the expiration to the offender and the supervisory authority.]

03/12/99 - Repeal

Supervised & Unsupervised Parole
& Post-Prison Supervision

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

Michael R. Washington
Hearings Coordinator

503-945-9009
Telephone

2575 Center Street NE, Ste. 100 Salem, Oregon 97301-4621
Address

Wednesday April 21, 1999 9:00 AM Room 108, 2575 Center Street NE - Salem Michael R. Washington
Hearing Date Time Location Hearings Officer

Hearing Date Time Location Hearings Officer

Hearing Date Time Location Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request:

Yes

No

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Exhibits P-1, P-II, P-III (OAR 255-032-0011)

AMEND:

255-032-0005, 255-032-0010, 255-032-0015, 255-032-0020

RENUMBER:

Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

ORS 144.110(2)(b), 163.105(1), 161.620 (1994), 144.780

Stat. Auth.: ORS

Oregon Attorney General Letter dated October 12, 1994

Other Authority

None

Stats. Implemented: ORS

RULE SUMMARY

Amends Division 32 to provide a matrix for setting prison terms for juveniles who were 17 years old when they were remanded and convicted of Aggravated Murder that was between November 1, 1989, and April 1, 1995.

April 21, 1999 by 5:00 PM
Last Day for Public Comment

 3-10-99
Authorized Signer and Date

Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of Amendments and Adoption	)	Statutory Authority,
of Rules of the Board of Parole and	)	Statutes Implemented,
Post-Prison Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 144.110(2)(b), 163.105(1), 161.620 (1994), 144.780

Other Authority: Oregon Attorney General Opinion Letter dated October 12, 1994

Statutes Implemented: ORS None

Need for the Rule(s): The Board of Parole & Post-Prison Supervision proposed amendments of Chapter 255, Division 32 to provide a matrix for setting prison terms for juveniles who were under 17 years old when they were remanded and convicted of Aggravated Murder that was committed between November 1, 1989 and April 1, 1995.

Documents Relied Upon: Oregon Attorney General Opinion Letter dated October 12, 1999

RECEIVED
1999 JUN 21 PM 2
BOARD OF PAROLE & POST-PRISON SUPERVISION

Fiscal and Economic Impact: We are not aware of any fiscal or economic affect these rules may have on the Board, other Agencies, Local Government, and the identified public.

Administrative Rule Advisory Committee consulted?: Yes. The Board of Parole & Post-Prison consulted with its Advisory Commission on Prison Terms and Parole Standards regarding the amendments to these rules.

If not, why?:

Diane M. Res

Authorized Signer and Date

01-15-99

eff

9-21-99

PERMANENT ADMINISTRATIVE RULES

That the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 05-17-99 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address

to become effective 09-22-99 Rulemaking Notice was published in the 08-01-99 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

FILED

SEP 21 1999

ARCHIVES DIVISION
SECRETARY OF STATE

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:
255-060-0008, 255-060-0014, 255-075-0072

REPEAL:
Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.
Amend and Renumber: Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

144.096, 144.125, 144.185, 133.305, 144.310, 144.346, 144.395
Stat. Auth.: ORS
None
Other Authority
None
Stats. Implemented: ORS

RULE SUMMARY

Amends Division 60 to establish a procedure for starting the period of post-prison supervision for offenders released from prison to a hold or a detainer.

Amends Division 75 to clarify the maximum length of post-prison supervision for offenders who have been revoked.

Michael R. Washington

9-21-99

Authorized Signer Date

* Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
** Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month, unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of Amendments and Adoption)
of Rules of the Board of Parole and)
Post-Prison Supervision)
)
)

Statutory Authority,
Statutes Implemented,
Statement of Need,
Principal Documents Relied Upon,
Statement of Fiscal Impact

Statutory Authority: ORS 144.096, 144.125, 144.185, 144.305, 144.310, 144.346, 144.395

Other Authority: NONE

Statutes Implemented: ORS NONE

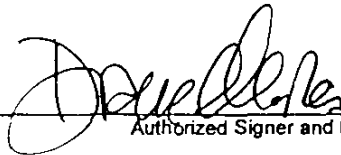
Need for the Rule(s): The Board of Parole & Post-Prison Supervision proposed amendments to Chapter 255, Divisions 60 & 75 to establish a procedure for starting and stopping the period of Post-Prison Supervision for offenders who have been revoked.

Principal Documents Relied Upon: None

Fiscal and Economic Impact: We are not aware of any fiscal or economic affect these rules may have on the Board, other agencies, Local Government, and the identified public.

Administrative Rule Advisory Committee consulted?: No

If not, why?: The Board of Parole & Post-Prison Supervision enacted these rules and changes during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.


Authorized Signer and Date

DIVISION 60

**RELEASE TO POST-PRISON SUPERVISION OR PAROLE
AND EXIT INTERVIEWS**

255-060-0006

Exit Interviews: Parole Plan; and Psychiatric Records

- (1) At any time prior to an inmate's scheduled release to post-prison supervision or parole, the Board on its own initiative or at the request of the Department of Corrections, may conduct an exit interview to review the inmate's:
 - (a) release plan;
 - (b) victim's statements, if any;
 - (c) PSR or similar report;
 - (d) psychiatric/psychological reports, if any;
 - (e) conduct while in confinement; and
 - (f) any other information relevant to the inmate's reintegration into the community that the inmate, the inmate's attorney, the Department of Corrections or any other person submits.
- (2) The procedures for records, disclosure and notice outlined in Division 15 and 30 shall govern exit interviews.
- (3) A panel shall conduct the interview and the Board shall make decisions pursuant to OAR 255-030-0015.

Statutory Authority: ORS 144.098, 144.125, 144.800
History: (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85; 5/19/88;
11/1/89; 4/5/90; 5/1/91, temporary; 10/15/91; 2/12/92, temporary;
4/15/92; 10/9/92, 03/14/97 11/09/98)

255-060-0008

Release Plans

- (1) At any time prior to release on parole or post-prison supervision, the Board shall examine the inmate's plans for residence, employment, or other situation in the community to determine whether the release plan is adequate. The plan may include, but is not limited to:
 - (a) employment;
 - (b) school, or other situation (e.g., retirement income);
 - (c) verifiable residence;
 - (d) a description of support services, program opportunities and treatment programs;

- (e) prescribed medication;
 - (f) recommended conditions of supervision for the purpose of reformation and public safety, including a recommendation for waiver of the condition of supervision that the inmate reside for the first six months in the county where the inmate resided at the time of the offense that resulted in imprisonment;
 - (g) level of supervision consistent with the prisoner's risk assessment classification; and
 - (h) a restitution and compensatory fine payment schedule.
- (2) The Board may defer parole release up to ninety (90) days from the parole release date when a plan is deficient or unverified in order to obtain verification or a satisfactory plan from the Department of Corrections.
 - (3) An inmate requesting an out-of-state parole waives the ninety (90) days limitation on deferral of release. Such waiver is for the purpose of an adequate parole plan in the accepting state.
 - (4) Except as provided in OAR 255-060-0014, the Board shall not defer release to post-prison supervision. The following procedure shall apply:
 - (a) If the release plan the Department of Corrections or designee of Local Supervisory Authority submits at least 60 days prior to release is deficient, the Board will return it to the submitting agency with the Board's recommended modifications.
 - (b) The Department or designee of Local Supervisory Authority shall submit a revised plan to the Board not less than ten days prior to the inmate's release.
 - (c) If the Board does not accept the revised plan, the Board shall determine the provisions of the final plan prior to the prisoner's release.
 - (5) One Board member shall review and approve the release plan.

Statutory Authority: ORS 144.096, 144.125, 144.185
 History: (4/5/90; 5/1/91, temporary; 10/15/91; 1992 proposed change, 03/14/97, 9-22-99)

255-060-0010
Waiver of the 90-Day Limitation; Deferral for Serious Misconduct

History: (2/1/79; 5/20/80; 2/15/81; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0012

Psychological or Psychiatric Reports

This rule does not apply to inmates whose only crimes are committed on or after November 1, 1989.

- (1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.
- (2) Pursuant to ORS 144.223, the Board may postpone the parole release date administratively and order a psychiatric/psychological evaluation of any inmate anytime prior to release.
- (3) After review of the psychiatric/psychological reports, and all other information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding:
 - (a) the inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.
- (4) The Board shall not deny release on parole solely because of an inmate's present severe emotional disturbance. The Board must also find the condition constitutes a danger to the health or safety of the community.
- (5) The majority of the Board may defer a scheduled parole release date up to two years. A panel may defer a scheduled parole release date up to 18 months.
- (6) If the Board finds the inmate does not have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board shall affirm the parole release date and set parole conditions.

Statutory Authority: ORS 144.125, 144.223

History: (4/5/90; 1/13/92; 7/26/93, temporary; 10/29/93, 03/14/97, 11/09/98)

255-060-0013

Postponement Order

Any order regarding the postponement of parole release shall be sent to the inmate and shall set forth:

- (1) the facts and specific reasons for the decision and the votes of the Board members;
- (2) notice of the right to administrative appeal pursuant to the procedures of Division 80.

Statutory Authority: ORS 144.125, 144.135, 144.335

History: (4/5/90, 03/14/97)

255-060-0014

Detainers

- (1) When an inmate has a detainer from another jurisdiction, the Department of Corrections will release the inmate to the detainer and Oregon active community supervision shall begin upon the inmate's release into the community from the holding jurisdiction, if the Oregon sentences have not expired while the inmate is incarcerated in another jurisdiction.
- (2) If a parolee is released by the Department of Corrections to a detainer from another jurisdiction and is recommitted to the Oregon Department of Corrections, the previous parole order shall be voided.
- (3) When an inmate has a new Sentencing Guidelines commitment to the Department of Corrections' custody, the Oregon active community supervision shall begin upon the inmate's release into the community, if the sentences have not expired while the inmate is incarcerated.
- (4) For Sentencing Guidelines inmates released from a Department of Corrections Institution directly to a hold or sentence that results in the offender remaining in jail or prison for more than 30 days continuously, the post-prison supervision start date will be calculated from the date the offender is released from that hold or sentence. The following procedure shall apply:
 - (a) The Board will issue an order of supervision when the offender is released from a Department of Corrections institution to the hold or sentence. The Order shall state that post-prison supervision has started on the date the offender left the Department of Corrections institution.
 - (b) The supervising officer must inform the Board in writing of the date the offender was or will be released from the hold or sentence that kept the offender in jail or prison for more than 30 continuous days. If the supervising officer knows the exact length of the hold or sentence, the supervising officer shall inform the Board in writing of the date the offender will be released from the hold or sentence. The supervising officer shall submit a written, updated release planning form to include the new release date, any changes in conditions, and the offender's new address, if any.
 - (c) The Board shall issue an amended order calculating the start of post-prison supervision based on the date provided by the supervising officer pursuant to subsection (b) or this rule.

Statutory Authority: ORS 144.305, 144.310

History: (4/5/90; 10/9/92, 03/14/97, 11/09/98, 9-22-99)

255-060-0015

Instate Parole Release Interview Procedures

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0020

Out-of-State Parole Release Hearing Procedures

An inmate in the Department of Corrections' custody who is housed in an out-of-state facility may receive a teleconference exit interview in conformance with rule 255-060-0006.

Statutory Authority: ORS 144.098, 144.125

History: (2/1/79; 5/31/85; 5/19/88; 10/9/92, 03/14/97, 11/09/98)

255-060-0025

Parole Consideration for Prisoners in a Local Jail

History: (2/1/79; 11/4/81, temporary; 5/19/82; 5/31/85, repealed)

255-060-0030

Exit Interview Board Review Packet

The exit interview Board Review Packet shall contain:

- (1) institution face sheet;
- (2) all Board Action Forms since the prison term hearing, if any;
- (3) psychiatric and/or psychological evaluations (previous 6 months);
- (4) correspondence;
- (5) field parole analysis report, a pre-sentence investigation report or comparable report;
- (6) court orders;
- (7) misconduct reports; and
- (8) release plan.
- (9) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.096, 144.098, 144.185

History: (5/19/88; 4/5/90, 03/14/97)

DIVISION 75

PROCEDURES FOR RESPONSES TO PAROLE AND POST-PRISON
SUPERVISION CONDITIONS VIOLATIONS FOR
OFFENDERS UNDER THE JURISDICTION OF THE BOARD OF PAROLE AND
POST-PRISON SUPERVISION OR LOCAL SUPERVISORY AUTHORITY

255-075-0001

Definitions

- (1) Administrative Sanction means local, structured, or intermediate sanctions as those terms are used in OAR 291-58-010 etal, and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.
- (2) Sanction Authority means:
- (a) The Board or its designee for:
- (1) Any felony offender who received a sentence of more than twelve (12) months in the custody of the Department of Corrections; or
- (2) Any felony offender who received a sentence of twelve (12) months or less but who also has an additional sentence(s) of greater than twelve (12) months.
- (A) If an offender is on post-prison supervision for multiple sentences which include a sentence that exceeds twelve (12) months ("Board case") and a less than twelve (12)-month sentence ("Local Supervisory Authority case"), the Board will maintain jurisdiction of the post-prison supervision of the Local Supervisory Authority case until the Board's active involvement in the Board case(s) expires. Following expiration of the Board's case(s), the Board will maintain jurisdiction over the post-prison supervision of the Local Supervisory Authority case(s) until an offender is re-released following revocation of the post-prison supervision for the Local Supervisory Authority case(s), or until the Local Supervisory Authority petitions to assume jurisdiction, whichever comes first.
- (B) If the Board issued the order of post-prison supervision for an offender whose only sentence was twelve (12) months or less, jurisdiction will remain with the Board until petition by the Supervisory Authority to assume jurisdiction or upon re-release following revocation of the post-prison supervision for that sentence; whichever comes first.
- (b) The Local Supervisory Authority or its designee for any felony offender whose crime was committed after November 1, 1989, was sentenced by the court to twelve (12) months or less, and who does not have an additional sentence of more than twelve (12) months for a felony.

Statutory Authority: ORS 144.140
History: (2/28/85; 3/14/88, temporary; 5/19/88, repealed, temporary 11/14/97;
05/11/98; temporary 07/13/98, 08/27/98

255-075-0002

Suspension of Parole or Post-Prison Supervision; Citation to Appear

- (1) When the supervising officer or other person informs the Sanction Authority of reasonable grounds to believe that a person has violated the conditions of parole or post-prison supervision, or that supervision is no longer in the best interests of the offender or the community, and that the revocation of parole or post-prison supervision may be justified or, in the case of parole only, an extension of parole may be justified, the Sanction Authority may:
 - (a) suspend the running of the sentence and the parole or post-prison supervision term and order the offender arrested and detained pending a violation hearing; or
 - (b) issue a citation to appear at a violation hearing without first suspending parole or the post-prison supervision term or ordering detention.
- (2) The Sanction Authority may issue a suspend and detain warrant or a citation to appear at a violation hearing.
- (3) The Sanction Authority may authorize, in writing, that its designated representative may issue citations to appear at a violation hearing.

Statutory Authority: ORS 144.025(3), 144.106, 144.331, 144.334
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary; 6/24/92, temporary; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0003

Criteria for Allowing Offender to Remain in Community Pending Hearing

In determining whether to allow an offender to remain in the community pending the violation hearing and final order, the Sanction Authority may consider:

- (1) the seriousness of the allegations and the risk to the offender or the community;
- (2) the likelihood of the offender absconding or failing to appear at the hearing;
- (3) the availability of resources in the community such as residence or employment;
- (4) any recommendation by the parole and post-prison supervision officer.
- (5) The Sanction Authority may release offenders detained under a Sanction Authority warrant, after the violation hearing, when recommending local sanctions or intervention and continuance of parole or post-prison supervision.

Statutory Authority: ORS 144.331(2)
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/30/92, temporary, 10/9/92; 10/29/93, temporary 11/14/97; 05/11/98)

255-075-0004

Guidelines for "Best Interest" Return

When the Sanction Authority determines that an offender's release on parole or post-prison supervision is not in the best interest of the offender or in the best interest of society, the Sanction Authority may return the offender to custody. This type of return to custody may apply when:

- (1) The offender is suffering from an emotional or psychological disturbance which makes the offender dangerous to self or others if left in the community. The following behavior may indicate a dangerous emotional or psychological disturbance:
 - (a) showing a present capacity to carry out any statements or threats of violence against the offender or the community; or
 - (b) circumstances and conduct similar to that which led to the initial incarceration; or
- (2) The offender's behavior cannot be adequately controlled if left in the community.
- (3) Best interest returns for offenders on post-prison supervision shall not exceed 90 days, and must be approved by the Sanction Authority.

Statutory Authority: ORS 144.270(2)(g), 144.350(2)
History: (3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97;
05/11/98)

255-075-0005

Hearing Requirement: Procedure

- (1) Except as otherwise provided by these rules, before the Board can revoke parole or extend active parole supervision for offenders whose crimes occurred on or after December 4, 1986, and before November 1, 1989 (BM10), the Board or Hearings Officer shall conduct a hearing.
- (2) When the offender waives the hearing and/or consents to the order, the Board need not conduct a hearing when the Board extends supervision for offenders whose crimes occurred on or after December 4, 1986 and before November 1, 1989 (BM10).
- (3) Except in the cases set forth in OAR 255-075-0015 and section (6) of this rule, the Sanction Authority shall impose administrative sanctions or shall initiate a hearing within fifteen (15) days of arrest or detention for the violation of parole or post-prison supervision conditions.
- (4) If an in-custody violation hearing and a final order cannot be accomplished within fifteen (15) days, a supervising officer or Hearings Officer shall request a non-bailable suspend and detain warrant from the Sanction Authority

- (5) Before a Hearings Officer can order more than sixty (60) days of local confinement without the offender's consent, the Hearings Officer shall conduct a violation hearing. Unless the Hearings Officer recommends a sanction, which is beyond his or her authority to order, the Hearings Officer may issue a final order subject to approval of the Sanction Authority, but immediately effective. If the recommended sanction exceeds sixty (60) days, it must be approved by the Supervisory Authority.
- (6) A hearing is not required when an administrative sanction or intervention involves local confinement of ninety (90) days or less when the offender consents to the sanctions or interventions. If the offender contests the allegations, the offender may request a hearing.

Statutory Authority: ORS 144.106(3), 144.108, 144.331(2), 144.343, 144.350, 144.370
 History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 5/1/91, temporary; 10/15/91; 4/30/92, temporary; 10/9/92 temporary 11/14/97; 05/11/98)

255-075-0006
Method of Hearing

The Hearing Officer may conduct hearings by teleconference or video conference. The Hearing Officer shall conduct hearings in person or by video conference in the following situations:

- (1) the alleged violations are contested and the offender or the offender's attorney shows that the witness's credibility, including observation of the witness's demeanor is necessary;
- (2) physical exhibits may be part of the record and viewing the exhibits is essential, and the exhibits can not be viewed in some other manner;
- (3) there are unusual circumstances not covered by this section, determined at the Hearing Officer's discretion.

Statutory Authority: ORS 144.035(5), 144.343(1)
 History: (11/4/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0007
Designated Representative Conducts Hearing

- (1) The Sanction Authority or its designated representative shall conduct the probable cause and violation hearing.
- (2) "Designated representative" shall include those persons designated by the Sanction Authority, and trained and certified as Hearings Officers.

Statutory Authority: ORS 144.104(1), 144.331, 144.343
 History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0008

Locations of Hearing

History: (11/19/84, temporary, expired)

255-075-0010

Board Action Upon Notification of Alleged Parole Violation:

Criteria for; Release of Parolee Pending Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0015

When Offender in Another Jurisdiction: Return

- (1) The Sanction Authority may suspend parole or post-prison supervision and may order the offender's return to custody in Oregon without first conducting a hearing when:
 - (a) the offender has, without permission, left the state to which the Sanction Authority released the offender on parole or post-prison supervision, and is in custody in another jurisdiction;
 - (b) the offender is in custody in another correctional facility;
 - (c) the offender has absconded from supervision and the offender's whereabouts are unknown; or
 - (d) the offender has been convicted of a new crime.
- (2) Except as provided in ORS 144.345(2) and OAR 255-075-0005(6), the Sanction Authority or the Hearings Officer shall conduct a violation hearing after the offender returns to custody in Oregon. For purposes of these rules, the arrest date is the date the offender is returned to custody in Oregon.

Statutory Authority: ORS 144.340, 144.345(2), 144.349

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/15/92, temporary; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0020

Rights of a Parolee at a Formal Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0025
Rights at Hearing

- (1) The designee of the Sanction Authority (eg. Hearings Officer) shall provide the offender a written notice of the hearing at least three (3) working days prior to the hearing.
- (2) The hearing notice shall include:
 - (a) a Notice of Rights as provided in ORS 144.343(3);
 - (b) a written statement of alleged violations; [and]
 - (c) any documents or evidence which form the basis of the alleged violations; and
 - (d) the date and location of the hearing.
- (3) The offender may elect to waive the three working day notification period prior to the hearing and begin the hearing immediately.
- (4) If the offender elects to waive the three working day notification period, the Hearings Officer shall obtain a written waiver or tape record the offender's verbal statement waiving the three working day notification period.
- (5) The Hearings Officer shall ascertain whether the offender has understood the allegations and the offender's rights and whether the offender can read, hear and understand the language of the proceedings. The Hearings Officer shall postpone the hearing if needed assistance is not readily available.

Statutory Authority: ORS 144.343(3)
History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0026
Waiver of Hearing

- (1) In all cases, the offender may waive the right to a hearing by signing a Notice of Rights form. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.
- (2) When the purpose of a hearing is to consider a parole or post-prison supervision violation, the waiver of the right to a hearing acknowledges that the offender violated the conditions in whole or in part and that the Sanction Authority may order local sanctions, may modify conditions of supervision, may extend active supervision or that the Board may order return to prison, without further hearing.
- (3) When the purpose of the hearing is to modify parole or post-prison supervision conditions or, in the case of parole, to consider extending active supervision, the waiver of the hearing indicates acceptance of the modifications.
- (4) If the offender waives the right to a hearing, the offender may offer a written or verbal statement pertaining to the dispositional phase of the violation hearing.

- (5) If the hearing is conducted via teleconference or video conference, the offender shall submit written waiver of the right to a hearing to the Hearings Officer within five (5) days after the waiver.
- (6) The person delivering the Notice of Rights shall tape record or document in writing any statement made at the time of waiver.
- (7) If the offender waives the right to a hearing, the Hearings Officer or Supervising Officer shall submit to the Sanction Authority the following:
 - (a) a Notice of Rights form;
 - (b) any written offender statements and/or a summary of oral statements;
 - (c) the Hearing Summary, including a history of local interventions and sanctions ordered and a recommendation regarding disposition;
 - (d) any supporting information, including the supervising officer's report and other documentary evidence submitted.

Statutory Authority: ORS 144.050, 144.140; 144.343
 History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0030
Rejection of Waiver

If the Sanction Authority is not satisfied that the offender knowingly and intelligently waived his or her hearing rights or if it needs more information before making its decision, it may order a new hearing, to be conducted by the Hearings Officer or the Sanction Authority.

Statutory Authority: ORS 144.050, 144.140, 144.343
 History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0031
Hearings Process

- (1) The Hearings Officer shall conduct the violation hearing reasonably near the place of the alleged violation or the place of confinement or may conduct the hearing by teleconference or video conference.
- (2) Unless the Hearings Officer finds good cause on the record, the parole and post-prison supervision officer shall present information and evidence at the hearing and arrange for the presence of witnesses for the state. The parole and post-prison supervision officer shall make dispositional recommendations.

(3) The Hearings Officer shall make a tape recording of the hearing.

Statutory Authority: ORS 144.050, 144.106, 144.140, 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary, 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0035

Representation/Ability to Pay Attorney Fees

- (1) In all cases, the offender is entitled to representation by an attorney at the offender's own expense.
- (2) For Board cases only, if the Hearings Officer or the Board deems the offender indigent, and unable to pay for an attorney, the offender is entitled to a Board appointed attorney if the Board or Hearings Officer further finds that the offender has made a timely and colorable claim that:
 - (a) the offender has not committed the alleged violation;
 - (b) there are substantial or complex mitigating circumstances which make revocation inappropriate even if the offender admits violation or it is a matter of record; or
 - (c) the offender appears incapable or representing himself/herself.
- (3) For Board cases only, if the Hearings Officer appoints an attorney, the Hearings Officer shall notify the Board of payment to be made to the appointed attorney. When the Board approves payment for a Board appointed attorney, it shall not exceed \$40 per hour and \$200 per case. The attorney shall send the Board a billing within 90 days of the violation hearing.
- (4) When the Hearings Officer or Board refuses to appoint an attorney, the Hearings Officer or Board shall state the grounds for refusal in the record.
- (5) For Local Supervisory Authority cases, the Local Supervisory Authority may set its own criteria for appointment of an attorney and shall set its own standards for payment of appointed attorneys.

Statutory Authority: ORS 144.343

History: (2/1/79; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 7/12/88, temporary; 9/20/88; 10/16/89; 10/15/91; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0036

Subpoenas; Witnesses

- (1) Offenders shall make their own arrangements for calling and presenting witnesses. However, upon the request of any party to the hearing, and upon a proper showing of the relevance and reasonable scope of the testimony to be offered, the Sanction Authority or Hearings Officer shall issue subpoenas requiring the attendance and testimony of witnesses. In addition, the Sanction Authority or the Hearings Officer may subpoena documents when relevant.
- (2) The Board shall reimburse fees and mileage as prescribed by law to witnesses appearing under subpoena, other than the parties, state officers or employees, provided the Hearing Officer or Sanction Authority certifies that the witness's testimony was relevant and material to the hearing.
- (3) The offender may present witnesses who have relevant information, and has the right to confront the persons or witnesses who have presented information against the offender.
- (4) The Hearings Officer or Sanction Authority may deny confrontation of witnesses by the offender if that confrontation would subject the witness to the risk of harm.
- (5) If the Hearings Officer or Sanction Authority denies confrontation of witnesses, the Hearings Officer or Sanction Authority shall state the reason(s) for the decision and conduct an independent examination of the witness on the record.

Statutory Authority: ORS 144.347

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0040

Compelling of Witnesses: Contempt

The Sanction Authority or Hearings Officer or party requesting a subpoena, may seek contempt proceedings in the circuit court of any county against any person refusing to honor the subpoena.

Statutory Authority: ORS 144.347(4)

History: (2/1/79; 11/19/84, temporary; 2/28/85; 10/9/92; 05/11/98)

255-075-0042

Probable Cause; Preliminary Hearing; Deferral of Revocation Hearing

- (1) The Sanction Authority or Hearings Officer may use evidence received and the order of a court at a preliminary hearing or a conviction or other reliable, relevant information to establish that probable cause exists to believe that the offender has committed a violation of a condition of parole or post-prison supervision.
- (2) Should the offender waive the right to a preliminary hearing, the waiver shall constitute a waiver of a probable cause hearing.

- (3) When the Sanction Authority or Hearings Officer defers completion of a violation hearing until a trial is over and until the court or the parole and post-prison supervision officer notifies the Sanction Authority or Hearings Officer of the final disposition of the case, the Sanction Authority or Hearings Officer shall use a finding of probable cause to support the decision to suspend and detain an offender charged with the commission of a new crime.
- (4) Notwithstanding subsection (3) of this section, the Sanction Authority or Hearings Officer shall not extend a deferral following a finding of probable cause for a period greater than 120 days from the date of the preliminary hearing or waiver, unless the offender is released from jail pending final disposition of the case, or waives in writing further delay. Subsequent waivers shall not extend beyond 120 days.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (11/25/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0045

Evidence; Subpoena of Documents

- (1) The Sanction Authority or Hearings Officer may receive the following as evidence at a violation hearing:
 - (a) oral testimony under oath;
 - (b) affidavits or other sworn statements;
 - (c) letters;
 - (d) documents;
 - (e) reports made in the course of official duty or professional practice (e.g., reports of law enforcement agencies, parole and post-prison supervision officers, doctors, psychologists, attorneys);
 - (f) uncertified copies of letters, documents, or reports shall be admissible in a revocation hearing if there is a reasonable showing by the person submitting the exhibit item that the copy is reliable;
 - (g) evidence of criminal activity even when charges have been dismissed, not brought, or the offender has been acquitted at trial;
 - (h) reliable hearsay evidence; or
 - (i) any evidence determined to be material, relevant, and reliable, regardless of its nature.
- (2) Upon the request of any party to the hearing, the Sanction Authority, or Hearings Officer, may issue a subpoena duces tecum upon a proper showing of relevant and reasonable scope of the documentary or physical evidence being sought. Otherwise, the offender shall make the offender's own arrangements for presenting evidence.

- (3) The Sanction Authority or Hearings Officer may exclude documents or physical evidence upon making a finding that such evidence would pose a hazard to facility security or would not assist in the resolution of the allegation(s). The reason for exclusion shall be made part of the record.
- (4) The Sanction Authority or Hearings Officer may classify documents or physical evidence as confidential upon making a finding that revealing such evidence would pose a threat to the safety of the person providing the evidence.
- (5) The Sanction Authority or Hearings Officer shall make evidence received without disclosing the identity of the witness a sealed part of the record.
- (6) When a witness is unavailable, the Sanction Authority or Hearings Officer may receive statements in the form of documentary evidence. The Sanction Authority or Hearings Officer shall determine at an in-camera hearing the reliability and relevance of the absent witness's statement.

Statutory Authority: ORS 144.343, 144.347

History: (2/1/79; 11/25/81, temporary; 5/19/82; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92; 05/11/98)

255-075-0046

Postponement

- (1) The Sanction Authority or Hearings Officer with Sanction Authority approval, may postpone a hearing for good cause and for a reasonable period of time, which shall not exceed 120 days.
- (2) The criteria for "good cause" includes, but is not limited to:
 - (a) the preparation of defense;
 - (b) illness or unavailability of the offender or other persons;
 - (c) gathering of additional evidence; or
 - (d) avoiding interference with an ongoing police investigation or pending prosecution.
- (3) The Sanction Authority, or Hearings Officer with Sanction Authority approval, may make a finding of a violation and defer disposition for a reasonable time which may exceed 120 days if such delay is reasonably necessary for the offender, the Sanction Authority or Hearings Officer to obtain information relevant to disposition decision.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/18/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0050

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

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0055

Reopening Hearings: Criteria; Procedure

- (1) After the completion of a violation hearing, the Sanction Authority or Hearings Officer may reopen a hearing if substantial new information is discovered which was not known or could not be anticipated at the time of the hearing and which would significantly affect the outcome of the hearing.
- (2) The Sanction Authority or Hearings Officer shall send the offender notice of the decision to reopen the hearing and the new information to be considered. The re-opened hearing shall conform to the procedures of this Division.

Statutory Authority: ORS 144.050, 144.140, 144.343

History: (2/1/79; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0056

Hearings Record

- (1) The hearings record shall include:
 - (a) a Hearings Report Summary;
 - (b) a written statement of alleged violations;
 - (c) supporting materials, including documentary evidence admitted;
 - (d) a signed Notice of Rights;
 - (e) the Order of Parole or Post-Prison Supervision;
 - (f) a notice of time and place of hearing;
 - (g) a tape recording of the advice of rights and the hearing;
 - (h) the supervising officer's report, including recommended dispositions; [and]
 - (i) the history of supervision, local sanctions and modifications; and
 - (j) if any, the written waiver of the offender's right to three working days notice of the hearing.
- (2) The Hearings Officer shall retain the tape recording used in subsection (1)(g) of this rule for two (2) years.

Statutory Authority: ORS 144.343
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 10/16/89;
10/9/92, temporary 11/14/97; 05/11/98)

255-075-0060

Record of Parole Revocation Hearing

History: (2/1/79; 11/19/84, temporary; 2/28/85, repealed)

255-075-0065

Ten Day Period for Offender's Evidence and Exceptions

- (1) Within a reasonable time after the hearing, the Hearings Officer shall provide his or her report to the offender.
- (2) Unless the offender waives the right to respond, the offender shall have 10 days from the date the Hearings Officer mails the report to the offender to submit evidence and make written exceptions to the report for the Sanction Authority's consideration.
- (3) If the offender waives the right to respond, the Hearings Officer shall include the waiver in the Hearings Officer's report to the Sanction Authority.
- (4) When a Hearings Officer makes a final order pursuant to Board authority granted in writing, the offender shall not have a ten day period within which to submit evidence and written exceptions. The offender may appeal a Hearings Officer's order under Division 80 of these rules.

Statutory Authority: ORS 144.343(7)
History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
4/19/89, temporary; 10/16/89; 10/15/91; 4/30/92, temporary; 10/9/92,
temporary 11/14/97; 05/11/98)

255-075-0067

**Final Action: Authority to Impose Administrative (Local) Sanctions,
Revoke Supervision or Modify Conditions of Supervision**

- 1) If an offender waives a hearing after receipt and review of the notice of rights, as provided in OAR 255-075-0005(6) a supervising officer may order administrative sanctions, including a local confinement sanction not exceeding thirty (30) days. The Local Supervisory Authority's designee may review the decision to order a local confinement sanction if the offender's underlying sentence was for 12 months or less. The Board may review the decision if the underlying sentence was more than 12 months.

- 2) After a hearing, or if an offender waives a hearing after receipt of the notice of rights, as provided in OAR 255-075-0005(6), a Hearings Officer or agency designee may order administrative sanctions, including a local confinement sanction not exceeding sixty (60) days. The Hearings Officer or agency designee shall send a copy of the final order and report to the Sanction Authority and, upon request, shall send the record of the hearing as described in OAR 255-075-0056. The Hearings Officer or agency designee shall retain the record for two (2) years.
- 3) After a hearing, or waiver, the Board may order administrative sanctions for offenders originally sentenced to more than 12 months, and a Local Supervisory Authority designee may order administrative sanctions for offenders originally sentenced to 12 months or less. The Board or a Local Supervisory Authority designee ordered local administrative confinement sanction may not exceed ninety (90) days.
- 4) The Board (for offenders originally sentenced to more than 12 months) or the Local Supervisory Authority designee (for offenders originally sentenced to 12 months or less) may override any sanction ordered by a supervising officer, agency designee or Hearings Officer.
- 5) Administrative Sanctions, including local confinement shall be applied in accordance with the Department of Corrections rules for structured, intermediate sanctions, OAR 291-58-010 et al., subject to jointly drafted revisions by the Department of Corrections and the Board.
- 6) If an administrative sanction is not sufficient to address the violation or to protect the public, the Sanction Authority may revoke supervision for a period(s) as set out in OAR 213-075-0079, or deny re-release for offenders on parole.
- 7) Conditions of supervision may be modified at any time by the Sanction Authority when necessary for the offender or public safety. If an offender objects to the modification, administrative review must be made within 45 days of the mailing date on the Board order or receipt of a written order by the Local Supervisory Authority.

Statutory Authority: ORS 144.106, 144.343

History: (4/30/92, temporary; 10/9/92; 10/29/93, temporary 11/14/97; 05/11/98)

255-075-0070

Final Action: Procedure

- (1) When a case comes before the Board or Supervisory Authority or designee for decision, the Board or Supervisory Authority shall consider the Hearings Officer's report, and the offender's evidence and exceptions. The Board or Supervisory Authority or designee shall enter a decision, and shall record the decision in accordance with the sanction/intervention guidelines, OAR 291-58-010 et al. The Board shall vote in accordance with Exhibit K.
- (2) The Board or Supervisory Authority may adopt or reject any or all the Hearings Officer's findings and recommendations. The Board or Supervisory Authority may find a violation of conditions not alleged, if the evidence admitted at the hearing supports the finding and the evidence is uncontroverted. The final order shall indicate the findings adopted by the Board or Supervisory Authority.
- (3) A copy of the final order shall be forwarded to the offender with notice of the right to administrative and judicial review.

- (4) All final orders of the Board are subject to Administrative Review by the Board prior to seeking judicial review.

Statutory Authority: 144.125, 144.343
History: 2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
7/1/88; 10/18/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary;
10/15/91; 4/30/92, temporary; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0072

Re-release Order After Revocation

- (1) At the time of a revocation decision, the Sanction Authority shall make an order concerning re-release.
- (2) In the re-release order, the Sanction Authority may:
- (a) continue parole or post-prison supervision pursuant to 255-075-0075 or 255-075-0080; or
 - (b) set the re-release date in accordance with rule 255-075-0079; or
 - (c) The Board may defer the re-release decision pending a future disposition hearing for offenders on parole.
- (3) Upon notification that parole or post-prison supervision has terminated by operation of ORS 144.345(2), the Board shall apply subsection (2) of this rule.
- (4) Revocation of post-prison supervision stops the period of post-prison supervision from running while the offender is serving time in custody for a revocation sanction. The re-release order following a revocation sanction shall include a re-calculation of the post-prison supervision expiration date to account for the time the offender was in custody serving the revocation sanction.
- (5) The sum of the time actually served on the original incarceration sentence, all days served as a revocation sanction, and the time served in the community on post-prison supervision cannot exceed the maximum indeterminate sentence for the offense(s) for which the offender is on post-prison supervision.

Statutory Authority: ORS 144.346, 144.395
History: (4/19/89, temporary; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98
9-22-99)

255-075-0075

Offenders Convicted of New Crime in This or Another Jurisdiction

- (1) If an offender has violated parole or post-prison supervision as a result of a conviction of a new crime and the court has ordered a prison term to the Department of Corrections, parole or post-prison supervision terminates without a violation hearing by operation of ORS 144.345(2).

- (2) Upon release from custody, if the Oregon sentence has not expired, Oregon supervision shall resume either in another jurisdiction under Interstate Compact or in Oregon. If, in preparing the re-release plan, the Department of Corrections cannot arrange supervision under Interstate Compact, the offender shall report to the appropriate Supervisory Authority for supervision.
- (3) The Sanction Authority shall make extradition decisions on a case-by-case basis in cooperation with the holding jurisdiction.
- (4) If the offender absconded supervision, the Sanction Authority shall count the inoperative time from the date the Sanction Authority issued its arrest and detention warrant to the arrest date in Oregon or if arrested out of state, upon return to Oregon custody. The Board shall forward the dates to the Department of Corrections for use in recalculating the sentence good time and expiration dates for those offenders under the Board's jurisdiction. For those not under the Board's authority, the inoperative time shall be calculated by the Supervisory Authority's designee.

Statutory Authority: ORS 144.345, 144.380, 144.610-.622
 History: (2/1/79; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 4/15/92, temporary 11/14/97; 05/11/98)

255-075-0076

Designation of Parole Failure

History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88, repealed)

255-075-0078

Commencement Date for Prison Term Following a Violation

- (1) The commencement date for a new commitment which is concurrent to an incarceration sanction for a violation of parole or post-prison supervision shall be the sentencing date for the new crime.
- (2) The commencement date for a new commitment which is consecutive to an incarceration sanction for a violation of parole or post-prison supervision shall be either the release date established for the violation or the sentencing date for the new crime, whichever is later.
- (3) Notwithstanding subsection (2) of this rule, when the new commitment is consecutive to a sanction for a violation, the Sanction Authority may treat the violation and the new commitment as if they were concurrent. If treated as concurrent, the commencement date for the new commitment shall be the sentencing date for the new crime plus adjustment for credit for time served.
- (4) If the offender is returned with a parole or post-prison supervision violation and a new sentence which is consecutive to the sentence for which the offender was on parole, the commencement date for the new conviction shall be the date parole was revoked, if so stated on the court order.

Statutory Authority: ORS 144.346, 144.395, 144.780, 144.783
 History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0079

Guidelines for Re-release

- (1) For technical violation(s):
 - (a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation.
 - (b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 90 days for each return, not to exceed the total revocation sanction days allowed in OAR 213-11-004.
- (2) For conduct constituting a crime:
 - (a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation.
 - (b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 180 days, not to exceed the total revocation sanction days provided in OAR 213-11-004.
- (3) For conduct constituting a crime and resulting in automatic revocation to the Department of Corrections, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.
- (4) Offenders sentenced to life imprisonment for murder or aggravated murder may serve further incarceration to the sentence expiration date.
- (5) Offenders sentenced as dangerous offenders may serve repeated incarcerations of 180 days or more up to the sentence expiration date.
- (6)
 - (a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest or return to Oregon custody if arrested out of state for the violation which resulted in the revocation of parole or post-prison supervision.
 - (b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) shall be the sentencing date, if no further action is taken by the Board.
 - (c) If the jailer, hearing officer, or Board releases the offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.
- (7) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.
- (8) Notwithstanding subsections 1-7 of this rule, the Board may choose to postpone re-release on parole pursuant to Divisions 50 and 60 of this chapter.
- (9) Notwithstanding subsections 1-8 of this rule, the Board may choose to deny re-release on parole pursuant to OAR 255-075-0096.

(10) Administrative sanctions do not count toward the revocation sanction limits.

Statutory Authority: ORS 144.108, 144.120(4), 144.125, 144.232, 144.345, 144.346,
144.395
History: (4/19/89, temporary; 11/1/89; 10/15/90, temporary; 1/16/91; 10/9/92;
10/29/93, temporary 11/14/97; 05/11/98)

255-075-0080

Continuance on Parole or Supervision

- (1) The Sanction Authority may continue an offender on parole or post-prison supervision and order modification of conditions and/or sanction to time served.
- (2) The Sanction Authority may continue an offender on parole or post-prison supervision and order administrative sanctions as limited by OAR 255-075-0067

Statutory Authority: ORS 144.106, 144.343, 144.345(1)
History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88;
10/16/89; 4/30/92, temporary; 10/9/92, temporary 11/14/97; 05/11/98)

255-075-0082

**Authority of Revocation Panel to Set New Parole Release Date
for Parole Violators**

History: (11/4/81 - 5/2/82, temporary; 11/19/84, suspended; 2/28/85, repealed)

255-075-0085

Parole Violators with No New Commitment; Action Required

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89,
suspended; 10/16/89, repealed)

255-075-0090

Guidelines for Reparole

History: (2/1/79; 11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89,
temporary; 11/1/89, repealed)

255-075-0095

Variation From Guidelines for Aggravation/Mitigation Permitted

History: (11/19/84, temporary; 2/28/85; 5/19/88; 7/1/88; 4/19/89, suspended; 10/16/89,
repealed)

255-075-0096

Denial of Re-release Consideration

- (1) Upon a finding of aggravation pursuant to Exhibit E or Exhibit H, the Board may deny re-release on parole and set the parole release date up to two (2) days before the statutory good time date, or, in the case of murder or aggravated murder, require the parole violator to serve for life. This action requires the affirmative vote of a majority of members, except that if the result is life imprisonment, the full Board must vote unanimously.
- (2) Denial of re-release on parole requires a future disposition hearing.
- (3) Cases in which the Board sets a parole violator within the guidelines set forth in rule 255-075-0079 and the result requires the parole violator to serve to the end of the sentence, do not require a majority vote of all members.
- (4) At any time after denial of re-release, the Board may adjust the parole release date to accommodate changes in the good time date.

Statutory Authority: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780, 144.783-787
History: (11/19/84, temporary; 2/28/85; 3/14/88, temporary; 5/19/88; 4/19/89, temporary; 10/16/89; 5/1/91, temporary; 10/15/91, 03/14/97)

255-075-0097

Time for Future Disposition Hearing

When the Board holds a future disposition hearing pursuant to 255-075-0072(2) or 255-075-0096, the following timelines shall apply:

- (1) If the offender has a new conviction, the Board may schedule the future disposition hearing at the same time as the new prison term hearing.
- (2) If the offender has no new conviction or has no prison term hearing, the Board shall schedule the future disposition hearing within 60 days of return to the institution.

Statutory Authority: ORS 144.050, 144.140, 144.395
History: (4/19/89, temporary; 10/16/89; 10/9/92)

255-075-0098

Restoration of Statutory and Meritorious Goodtime

Upon recommendation of the superintendent of the institution, the Board may restore part or all of forfeited statutory and meritorious goodtime when:

- (1) there is no violation of parole; or
- (2) parole is revoked on a best interest basis and there is no actual parole violation; or
- (3) parole is revoked on a technical violation; or
- (4) parolee is within 180 days of discharge; or

- (5) parole is revoked for new criminal activity which is a misdemeanor or non person-to-person class C felony and:
 - (a) the new criminal activity was already sanctioned at the local level;
or
 - (b) the criminal activity is not of the same nature as the crimes for which the parolee was on parole.
- (6) An offender ordered to serve a term of incarceration as a Revocation sanction for a post-prison supervision violation is not eligible for goodtime, earned-credit time, work release, transitional or temporary leave.

Statutory Authority: ORS 421.120, 144.108(3)
History: (3/14/88, temporary; 5/19/88; 12/6/88; 10/16/89; 10/9/92, 03/14/97, temporary 11/14/97; 05/11/98)

255-075-0100
Future Disposition Hearing Packet

The Future Disposition Hearing Packet shall contain:

- (1) institution face sheet;
- (2) revocation recommendation;
- (3) final order of revocation;
- (4) administrative action sheet;
- (5) revocation hearing findings;
- (6) Board Action Form ordering parole or Board Action Form ordering post-prison supervision conditions;
- (7) disciplinary report, when extension is recommended;
- (8) recommendation regarding statutory and meritorious goodtime;
- (9) correspondence;
- (10) statements of imprisonment for violation; and
- (11) face sheet from old parole analysis report or comparable report.
- (12) Inmate's Notice of Rights and Board of Parole & Post-Prison Supervision Procedures.

Statutory Authority: ORS 144.185, 144.395
History: (5/19/88; 12/6/88; 10/16/89, 03/14/97)

Eff

11-15-99

Secretary of State
Certificate Order for Filing

PERMANENT ADMINISTRATIVE RULES

That the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 11/03/1999 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address

to become effective 11-15-1999 Rulemaking Notice was published in the 10-01-99 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:
OAR 255-001-0010

REPEAL:

Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.
Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

183.335(3)&(4)
Stat. Auth.: ORS
SB 2222 (1999 Oregon Legislature)
Other Authority
None
Stats. Implemented: ORS

FILED

NOV 15 1999

ARCHIVES DIVISION
SECRETARY OF STATE

RULE SUMMARY

This rule is being amended to comply with statutory changes addressing an inmate's ability to participate in the proposed adoption, amendment or appeal of any rule. The amendment limits such participation to writing only with reasonable accommodations made to those inmates who are unable to submit written submissions.

Michael R. Washington 11-15-99
Authorized Signer Date

* Copy include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be filed to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of Amendments and Adoption	)	Statutory Authority,
of Rules of the Board of Parole and	)	Statutes Implemented,
Post-Prison Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 183.335 (3) & (4)

Other Authority: HB 2222 (1999 Oregon Legislature)

Statutes Implemented: ORS None

Need for the Rule(s): This rule is being amended to comply with statutory changes addressing an inmate's ability to participate in the proposed adoption, amendment or appeal of any rule. The amendment limits such participation to written submissions only with reasonable accommodations for those inmates who are unable to submit written submissions.

Documents Relied Upon: None

Fiscal and Economic Impact: We are not aware of any fiscal or economic effect this amendment will have on the Board. There may be some effect on other agencies, local government, or identified public.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The Board of Parole and Post-Prison Supervision enacted this amendment and change during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.

Michael R. Washington 09/15/1999
Authorized Signer and Date

DIVISION 1

**RULEMAKING PROCEDURE
ORS 144.050, 144.140, 183.325-355**

Notice of Rulemaking: Time and Manner
255-001-0005

- (1) Prior to the permanent adoption, amendment, or repeal of any rule, the chairperson of the Board shall give notice of the proposed action at least twenty-one (21) days prior to the effective date:
- (a) in the Secretary of State's Bulletin referred to in ORS 183.360;
 - (b) by mailing a copy of the notice at least 28 days prior to the effective date to persons on the Board mailing list established pursuant to ORS 183.335(7); and
 - (c) by mailing or furnishing a copy of the notice to:
 - (A) Oregon State Bar Bulletin;
 - (B) Associated Press;
 - (C) Release Services, Field Services, and Regional Offices, State of Oregon Department of Corrections;
 - (D) Oregon District Attorneys Association;
 - (E) Oregon Criminal Defense Attorneys Association;
 - (F) All County Public Defender Offices;
 - (G) All County Law Libraries;
 - (H) Attorney General's Office;
 - (I) State Public Defender;
 - (J) Oregon Supreme Court Law Library;
 - (K) University of Oregon Law Library;
 - (L) Northwestern School of Law, Lewis and Clark College;
 - (M) College of Law, Willamette University;
 - (N) American Civil Liberties Union;
 - (O) The Oregonian, Portland, Oregon;
 - (P) Pendleton Eastern Oregonian, Pendleton, Oregon;
 - (Q) The Statesman Journal, Salem, Oregon;
 - (R) Medford Mail Tribune;
 - (S) The Register Guard, Eugene, Oregon; and
 - (T) Others upon formal written request of the Board.
- (2) When the Board has filed a temporary rule with the Secretary of State's Office, the Board shall mail a copy of the certificate and order and a copy of the temporary rule to the persons on the Board's mailing list, and to those listed in subsection (1)(c) of this section.
- (3) Notwithstanding subsection (2) of this section, when the Board has filed a temporary rule with the Secretary of State's Office, newspapers and media service shall only receive a copy of the certificate and order.

Statutory Authority:

History: (2/1/79; 5/31/85; 5/19/88; 10/9/92; 4/4/94; 8/15/94, 11-15-99)

11-15-99

Rulemaking Procedure

Rulemaking Procedure
255-001-0010

- (1) The Board shall adopt all new and revised rules in accordance with the provisions of ORS Chapter 183, the Oregon Attorney General's Model Rules of Procedure and ORS 192.610 to 192.690. The Board will use only those sections of the Model Rules which relate to rulemaking.
- (2) The Board shall hold a business meeting, pursuant to Division 20, to consider a change in the rules after the Board has filed a notice of intent.
- (3) The Board, in its discretion, may limit participation by inmates in the proposed adoption, amendment or repeal of any rule to written submissions. The Board shall make reasonable accommodations for inmates for who the Board finds cannot submit written submissions.

Statutory Authority: ORS 183.335(3)(b)
History: (2/1/79; 5/31/85; 5/19/88; 10/9/92; 4/4/94, 11-15-99)

Contents of Notice of Rulemaking when
Public Hearing will be held Only if Requested
255-01-015

History: (2/1/79; 5/31/85; repealed)

Obtaining Copies of Board Rules
255-001-0016

- (1) The Board shall provide a free copy of its rules to all Oregon Department of Corrections inmate libraries and to any state agency or legislative entity that requests a copy.
- (2) Others who desire copies of Board's rules shall make their requests in writing. The Board will charge ten (.10) cents per page to cover the costs for individual rules. The Board must receive payment in advance. Prisoners who request copies of rules shall send authorization to withdraw funds from their inmate trust account and the Board shall verify that the account contains sufficient funds to cover the cost.

Statutory Authority:
History: (5/31/85; 5/19/88; 10/9/92)

Draft to Legislative Counsel
255-001-0020

Prior to a proposed change in the rules, including temporary rules, the Board may submit a draft of the proposed action to Legislative Counsel.

Statutory Authority:
History: (2/1/79; 5/19/88; 12/6/88)

Postponing Intended Action
255-00-025

History: (2/1/79; 5/31/85; repealed)

Conduct of Hearing
255-01-030

History: (2/1/79; 5/31/85; repealed)

Presiding Officer's Report
255-01-035

History: (2/1/79; 5/31/85; repealed)

Action of the Board
255-01-040

History: (2/1/79; 5/31/85; repealed)

Notice of Board Action: Certification to Secretary of State; Submitting Copy to Legislative Counsel
255-01-045

History: (2/1/79; 5/31/85; repealed)

Petition to Adopt, Amend, or Repeal Rule: Contents of Petition; Filing of Petition
255-01-050

History: (2/1/79; 5/31/85; repealed)

Temporary Rules
255-01-055

History: (2/1/79; 5/31/85; repealed)

Joint Rules With Other Agencies

255-001-0060

- (1) The Board shall adopt rules jointly with other administrative agencies as required by statute.
- (2) The Board may adopt rules jointly with another administrative agency when necessary to implement its own rules.
- (3) Jointly adopted rules shall be specifically designated as joint rules, and the appropriate agency shall be identified in the rules.

Statutory Authority:

History: (5/19/88)

Secretary of State
Certificate Order for Filing

PERMANENT ADMINISTRATIVE RULES

That the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 11/03/1999 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address

to become effective 11-15-1999 Rulemaking Notice was published in the 10-01-99 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

FILED

NOV 15 1999

**ARCHIVES DIVISION
SECRETARY OF STATE**

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:
OAR 255-070-0003

REPEAL:
Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.
Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

144.102
Stat. Auth.: ORS
SB 2216 (1999 Oregon Legislature)
Other Authority
None
Stats. Implemented: ORS

RULE SUMMARY

This rule is being amended to comply with statutory changes requiring offenders released on post-prison supervision to reside in county of residence for first six months of release. The county of residence cannot include crimes committed while in prison.

Michael R. Washington

11-15-99

Authorized Signer

Date

* Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
** Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be filed with the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month, unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of Amendments and Adoption	)	Statutory Authority,
of Rules of the Board of Parole and	)	Statutes Implemented,
Post-Prison Supervision	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Statutory Authority: ORS 144.102

Other Authority: HB 2216 (1999 Oregon Legislature)

Statutes Implemented: ORS None

Need for the Rule(s): This rule is being amended to comply with statutory changes requiring offenders released on post-prison supervision to reside in county of residence for first six months of release. The county of residence cannot include crimes committed while in prison. The rule is necessary to be consistent with the rules that apply to offenders released on parole.

Documents Relied Upon: None

Fiscal and Economic Impact: We are not aware of any fiscal or economic effect this amendment will have on the Board. There may be some effect on other agencies, local government, or identified public.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The Board of Parole and Post-Prison Supervision enacted this amendment and change during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.

Michael R. Washington
Authorized Signer and Date

09/15/1999

Secretary of State
Certificate Order for Filing

PERMANENT ADMINISTRATIVE RULES

that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on 11/03/1999 by the
Date prior to or same as filing date

Board of Parole & Post-Prison Supervision Chapter 255
Agency and Division Administrative Rules Chapter Number
Michael R. Washington (503) 945-0900
Rules Coordinator Telephone
2575 Center Street NE, Salem, OR 97310
Address

to become effective 11-15-1999 Rulemaking Notice was published in the 10-01-99 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000

ADOPT:
Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:
Exhibit J (OAR 255-070-0001)

REPEAL:
Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.
Secure approval of the rule numbers with the Administrative Rules Unit prior to filing.

144.102, 144.270, 144.275, 181.595
Stat. Auth.: ORS
SB 740 (1999 Oregon Legislature)
Other Authority
None
Stats. Implemented: ORS

FILED

NOV 15 1999

ARCHIVES DIVISION
SECRETARY OF STATE

RULE SUMMARY

This Exhibit is being amended to comply with statutory changes and to update the rules to reflect the Board's current procedures.

Michael R. Washington

11-15-99

Authorized Signer Date

* Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.
**The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 PM on the 15th day of the preceding month, unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 PM on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Parole & Post-Prison Supervision
Agency and Division

Chapter 255
Administrative Rules Chapter Number

In the Matter of Amendments and Adoption
of Rules of the Board of Parole and
Post-Prison Supervision

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)
)
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)

Statutory Authority,
Statutes Implemented,
Statement of Need,
Principal Documents Relied Upon,
Statement of Fiscal Impact

Statutory Authority: ORS 144.102, 144.270, 144.275, 181.595

Other Authority: SB 740 (Oregon Legislature)

Statutes Implemented: ORS None

Need for the Rule(s): This Exhibit is being amended to comply with statutory changes and to update the rules to reflect the Board's current procedures.

Documents Relied Upon: None

Fiscal and Economic Impact: We are not aware of any fiscal or economic effect this amendment will have on the Board. There may be some effect on other agencies, local government, or identified public.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The Board of Parole and Post-Prison Supervision enacted this amendment and change during a business meeting and due to the nature of the amendments, felt it was not necessary to consult the Administrative Rule Advisory Committee.

Michael R. Washington 09/15/1999
Authorized Signer and Date

DIVISION 70

CONDITIONS OF PAROLE AND POST-PRISON SUPERVISION

Conditions Not Limited by Exhibit J

255-070-0001

- (1) The Board may order parole conditions pursuant to OAR 255-070-0015.
- (2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-11-001.
- (3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

Statutory Authority: (ORS 144.096, 144.102, 144.270)

History: (5/31/85; 11/3/86, temporary; 4/1/87; 4/15/88, temporary; 5/19/88; 7/1/88; 10/18/88; 4/5/90; 4/30/92, temporary; 10/9/92; 10/15/93, 11/09/98, 9-15-99 Notice/Temp, 11-15-99)

Offender Return to County of Residence

255-070-0003

- (1) Unless the Board waives the condition, the Board shall order as a condition of parole or post-prison supervision that an offender reside for the first six months in the county where the offender resided on the date of the last arrest for a crime resulting in imprisonment.
 - (2) (a) The Board or the Department of Corrections may establish the county of residency by obtaining the last address of record at the time of the offense from all of the available information in the following records:
 - (A) An Oregon driver's license, regardless of its validity;
 - (B) The Department of Revenue;
 - (C) The Department of State Police, Bureau of Criminal Identification;
 - (D) The Department of Human Resources; or
 - (E) The Department of Corrections.
 - (b) If the records do not disclose the county of residency, the Board or the Department shall find the offender resided in the county where she or he committed the crime.
 - (c) If the offender is serving multiple sentences, the county of residence shall be determined according to the date of the last arrest resulting in a conviction.
 - (d) In determining the offender's county of residence for purposes of this rule, the Board may not consider offenses committed by the offender while the offender was incarcerated in a Department of Corrections facility.
- (3) Upon motion of the Board, an offender, a victim, or a district attorney, the Board may waive the residency requirement after finding:
 - (a) the offender provided proof of a job with no set ending date in a county other than

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Conditions of Parole

- the established county of residence;
- (b) the offender poses a significant danger to the victim;
- (c) the victim or victim's family poses a significant danger to the offender residing in the county of residence.
- (d) the offender has a spouse or biological or adoptive family, residing in other than the county of residence, who will be materially significant in aiding in the rehabilitation of the offender and in the success of the parole or post-prison supervision period;
- (e) the Board requires that the offender participate in a treatment program which is not available in the county of residence;
- (f) the offender desires release to another state or another state has a detainer; or
- (g) other good cause.

Statutory Authority: (ORS 144.270(5))
 History: (11/1/89; 10/15/91; 10/9/92, 9-15-99 – NOTICE/TEMP, 11-15-99)

Parolee Placement in Community Corrections Centers; Standards; Limitations
255-070-0005

History: (2/1/79; 5/31/85, repealed)

Guidelines on General Condition Relating to "Best Interest" Return
255-070-0010

History: (2/1/79; 5/31/85; 11/3/86, temporary; 4/1/87; 5/19/88, repealed)

Establishing Conditions
255-070-0015

- (1) The Board may order an exit interview prior to the inmate's release date to review the inmate's case and set or approve conditions. See Division 60 for exit interview procedures.
- (2) If the Board decides to waive an exit interview, it shall specify the parole condition(s) prior to release and shall include the conditions on an order of supervision.
- (3) If the Board decides to waive an exit interview, it shall specify, in an order given to the offender upon release from incarceration, the post-prison supervision condition(s).
- (4) Once the Board establishes the conditions, the Board may amend the conditions and issue an amended order by:

- (a) considering a requested modification administratively, if the amendment is requested

11-15-99

Conditions of Parole

before the inmate's release on parole or post-prison supervision or if a condition is deleted after release; and

- (b) citing to a hearing, if the amendment is requested after release and the offender does not consent in writing to the addition of conditions.
- (5) The Hearings Officer may amend the conditions, after a hearing, unless the offender waives the hearing. The Hearings Officer shall send notice of the amendment to the Board.
- (6) If the offender waives the right to a hearing and consents in writing to the addition of conditions, the supervising officer may amend the conditions. The officer shall send notice of the amendment to the Board.
- (7) If the Board does not override the Hearings Officer or supervising officer amended conditions, the Board shall issue an amended order of conditions, however, the condition is in effect from the date the supervising officer or Hearings Officer orders it.
- (8) The Board or the Hearings Officer shall conduct a hearing under section (4) and (5) of this rule applying rules governing violation hearings in Division 75.
- (9) When a supervisory authority requests amended conditions before the inmate is released on parole or post-prison supervision, the supervisory authority shall submit the request in writing or by teletype to the Board prior to the release date.
- (10) An offender may appeal the conditions of parole or post-prison supervision pursuant to the procedures of Division 80.

Statutory Authority: (ORS 144.096, 144.098, 144.102, 144.106, 144.125, 144.185, 144.270, 144.343)

History: (5/19/88, 4/5/90; 4/30/92, temporary, 10/9/92, 11/09/98)

EXHIBIT J

(ORS 144.102, 144.270, 144.275, 181.595)

OAR 255-060-0008, 255-065-0005, 255-070-0001-0015, 255-075-0002, 255-075-0004)

GENERAL/SPECIAL PAROLE AND POST-PRISON SUPERVISION CONDITIONS

Parole/Post-Prison Supervision is subject to all listed General Conditions and the designated Special Conditions. Prior to release the Board may modify the conditions at any time. After parole/post-prison supervision has commenced, conditions may be added upon your signed consent or after opportunity to be heard, orally or in writing.

Parole may be revoked for violation of any of these conditions and/or you may be returned when parole is not in your best interest or the best interest of society.

The Board may, at its discretion, sanction violations of Post-Prison Supervision Conditions; sanctions may include returning you to the Department of Corrections custody.

As used in this exhibit, the following words have the following meanings: "Offender" means persons released to parole or post-prison supervision. "Parole Officer" shall also mean the supervisory authority under the post-prison supervision system.

GENERAL CONDITIONS

1. Pay supervision fees, fines, restitution or other fees ordered by the Board.
2. Not use or possess controlled substances except pursuant to a medical prescription.
3. Submit to testing of breath or urine for controlled substance or alcohol use if the offender has a history of substance abuse or if there is a reasonable suspicion that the offender has illegally used controlled substances.
4. Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
5. Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency. Offender automatically waives extradition if offender absconds supervision out of State.
6. If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both.
7. Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.
8. Permit the supervising officer to visit the offender or the offender's residence or work site, and report as required and abide by the direction of the supervising officer.

9. Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.
10. Obey all laws, municipal, county, state and federal.
11. Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
12. Not possess weapons, firearms, or dangerous animals.

SPECIAL CONDITIONS

1. Offender shall be evaluated by a mental health evaluator and follow all treatment recommendations.
2. Offender shall continue to take any psychiatric or psychotropic medication that was prescribed prior to or at the time of release from custody until otherwise directed by a physician. At the direction of the parole officer, the offender shall undergo a psychiatric evaluation and take any medications recommended. The offender shall comply with a medication monitoring program at the request of the parole officer.
3. Offender shall have no contact with minor females and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades) without prior written approval from their supervising officer.
4. Offender shall have no contact with minor males and shall not frequent any place where minors are likely to congregate (e.g., playgrounds, school grounds, arcades) without prior written approval from their supervising officer.
5. Offender shall submit to random polygraph tests as part of a sex offender surveillance program. Failure to submit to the tests may result in return to custody. Specific responses to the tests shall not be the sole basis for return to custody.
6. Offender shall enter and complete or be successfully discharged from a recognized and approved sex offender treatment program which may include polygraph and/or plethysmograph testing and a prohibition on possession of printed, photographed or recorded materials that the offender may use for the purpose of deviant sexual arousal.
7. Offender shall pay court ordered restitution to the clerk of the court of the county of sentencing (ORS 137.106, OAR 255-065-0005).
8. If required to report as a sex offender under ORS 181.595, report with the Department of State Police, a Chief of Police, a county Sheriff, or the Supervising Agency when supervision begins, within 10 days of a change in residence and once a year within 10 days of the person's date of birth.
9. Offender shall not possess or use intoxicating beverages.

10. Other: Special conditions may be imposed that are not listed above when the Board of Parole and Post-Prison Supervision determines that such conditions are necessary.
11. Offender shall have no contact direct or indirect with those listed below: