

REPRESENTATION OF PAROLEES

The 2015 Reform, New Criminal Charges, and the Implications on Prior Parole

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Background on the 2015 Reform Justice Reinvestment Initiative

- ▶ The Commission on Criminal and Juvenile Justice (CCJJ) analyzed state corrections and criminal justice data and developed a comprehensive set of evidence-based policy recommendations to reduce recidivism, hold offenders accountable, and control the state's prison growth. When fully implemented, the recommendations are projected to reduce prison growth by 2,551 inmates over the next 20 years and thereby avert \$542 million in corrections spending.

- ▶ CCJJ recommends that a portion of the savings from averted prison costs be reinvested into expanding treatment options, strengthening community supervision, improving reentry services, and reducing burdens on local jurisdictions. With over 95 percent of offenders returning to our communities after serving time in prison or jail, JRI focuses on changing criminal behavior and improving public safety.

JRI Goals for Recidivism Reduction

- *Focus prison beds on serious and violent offenders*
- *Strengthen probation and parole supervision*
- *Improve and expand re-entry and treatment services*
- *Match resources to offender's needs*
- *Support local corrections systems*
- *Ensure oversight and accountability*

2015 REFORM GUIDELINES FOR PAROLE VIOLATIONS

- ▶ R671-509-1. Progress / Violation Reports.
- ▶ (1) A parole agent or other representative of the Department of Corrections shall submit a parole progress / violation report to the Board when an incident occurs that may constitute cause to modify the conditions of or revoke parole, including:
 - ▶ a. an arrest or conviction of any misdemeanor or felony;
 - ▶ b. significant violations of the general or special conditions of parole; and
 - ▶ c. an incident which results in the parole agent placing the parolee in jail, under arrest, in detainment, or other conditions or incidents which result in the parolee being denied liberty.
- ▶ (2) These reported parole violations shall be investigated and all incident reports along with a recommended course of action shall be submitted to the Board within 72 hours of confinement or, if the parolee is not confined, detained or arrested, within seven days from the date of the violation.
- ▶ (3) The report shall advise the Board of a parolee's adjustment to parole and provide reasons for modification of the parole agreement conditions. Police reports, court orders, and waivers of personal appearance from parolees shall be attached when applicable.

The Sentencing Commission established guidelines about how long an individual may be incarcerated when parole is revoked.

- No more than 60 days of incarceration for the first parole revocation
- No more than 120 days for the second, and
- No more than 180 days for the third.

The Board may give less incarceration time for less severe violations or when there are mitigating factors. The maximum parole revocation periods should be reserved for the most serious violations. Under limited conditions the Board may find an exception to the Guidelines and revoke parole for a longer period of time up to the expiration of an individual's sentence.

The Response/Incentive Matrix creates a framework for Adult Probation and Parole (AP&P) to respond to good performance or violations of individuals on parole. The matrix allows for swift graduated responses short of returning an individual to prison for technical violations and the matrix creates incentives for positive behavior. As part of the graduated responses, AP&P may request 1-3 days jail time as an intermediate sanction. AP&P submits these requests to the Board for approval for individuals on parole or to the Court for individuals on probation.

GRADUATED RESPONSES & SANCTIONS

- These are guidelines only. Except as provided in Utah Code §§ 77-18-1 and 77-27-11 (incarceration time for probation and parole violations) they do not create any right or expectation on behalf of the offender.
- This is a non-exhaustive list of options which may or may not be available dependent upon resources. Any lower response is always available to the Court or BOPP.
- The inclusion of the graduated incarceration caps is intended as a maximum on the first, second, third and subsequent revocations.
- The number of revocations will be counted continuously during the current period of court or BOPP jurisdiction.

- Probation revocation to prison, or discharge from probation or parole supervision, resets the revocation count.
- Tool 3 may be used to increase or decrease the magnitude of the response within the guideline range and should be reviewed for each violation.
- Tool 6 should be used for any time period imposed beyond the caps listed herein. 72 hour holds are not to be used as a means to avoid the sanction process listed herein.
- Any booking into the county jail for sanction days should be clearly designated as such and should include the signed order of the Court/BOPP approving the sanction days.

		Incarceration Caps	
		Probation	Parole
	3rd & Subseq. Revocation	45 (0-90)	90 (0-180)
	2nd Revocation	30 (0-60)	60 (0-120)
	1st Revocation	15 (0-30)	30 (0-60)
	P.O. with Superv. & Court / BOPP Approval	Hearing Before Court/BOPP Community Correctional Center 1-3 Days Jail Per Sanction (Maximum of 5 days/30 Days) 90+ Days GPS/EM or at offender cost	
	P.O. with Supervisor Approval	Any Lower Level Response Request Court/BOPP Sanction <90 day Curfew <90 Day GPS/EM or no offender cost <72 Hours Home Restriction Treatment Resource Center <16 Hours Community Service	
Probation/Parole Officer Sanctions & Responses		Up to 60 Day Curfew Travel Restriction Structured Living Increased Supervision Require Change in Residence Revision of Case Action Plan Increased Reporting/Testing Community Accountability Board Workshops Assignments Family Meeting Problem Solving Report Mentoring Program Develop Risk Avoidance Plan Letter of Apology Thinking Report Verbal Warning	

TOOL 6 – EXCEPTIONS TO INCARCERATION CAPS

To be exercised by the Court or BOPP only with a hearing and upon entry of appropriate findings. The use of exceptions are dependent upon the nature of each violation, not the number of hearings.

	PROBATION	PAROLE	
1	<p>Finding that conduct presents a substantial risk to public safety that cannot be addressed through behavior modification sanctions.</p> <p>Substantial risks to public safety include, but are not limited to:</p> <p>A. "Per Se" Violations: e.g. dangerous weapons, fleeing via high speed chase, violent arrest behavior, new person crime allegations, high priority CCC walkways; or</p> <p>B. "Crime of Commitment Dependent" Violations: e.g. sex offender in cycle, repeat DUI violations, person crime absconder, mental health instability that negatively impacts a criminogenic risk factor, repeat domestic violence offender, serious financial crimes.</p>		1
2	Jurisdiction over new criminal conviction with new guideline recommendations from Forms 1-3 attached.		2
3	Finding that execution of sentence previously imposed is warranted pursuant to 77-18-1(12)(e)(iii)(B).	<p>Revocation of parole for lying or engaging in criminal conduct prior to parole pursuant to 77-27-10(1)(b),</p> <p>including when offender engaged in criminal conduct prior to release and BOPP was unaware of conduct at the time it made decision to release; or offender lied prior to release and that lie led to BOPP decision to release.</p>	3
		<p>Guilty and Mentally Ill compliance pursuant to 77-16a-205,</p> <p>including when the BOPP is required by statute to conduct a formal review of an offender who plead guilty and mentally ill before considering release. The time required to conduct this review could exceed the caps.</p>	4
		<p>Parole Violation Hearing continued pursuant to Admin. Rule R671-204,</p> <p>including when new charges are pending; an evidentiary hearing is required; competency or mental illness needs of the offender; to allow victim participation; or offender requests continuance.</p>	5
		<p>Rescission pursuant to Administrative Rule R671-310,</p> <p>including when the BOPP decides to rescind a parole date that was previously granted because offender engaged in major misconduct in prison or was convicted of further criminal conduct.</p>	6

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Representing parolees
charged with new crimes in
conjunction with Board
Warrants and pending Parole
Violation Reports and
implications on prior,
current and future paroles

- ▶ Most of the time the Board Warrant that is based on the PVR will contain alleged conduct on the new crime.
- ▶ Board warrants and PVR are generally issued prior to the new charges being filed.
- ▶ The BOPP has jurisdiction over Class A misdemeanors and above when an individual is sentenced to prison.

- ▶ Parole Violation Hearings will be continued until the underlying offenses have been adjudicated and sentenced.
- ▶ If sentenced to credit for time served and closure of the case, BOPP will go forward with the Parole Violation Hearing.
- ▶ If sentenced to prison, BOPP will calendar a new Original Hearing

CONCLUSION

