

# ARKANSAS PAROLE BOARD

## POLICY MANUAL

(Secretary of State Rule Number 158)



Revised and Adopted November 23, 2015, [pursuant to new PPTB Clemency rule, hereby incorporated by reference herein and made a part hereof for all purposes as if fully set forth herein, effective upon adoption.](#)

**Certification:**

This Manual reflects the current version of the policies contained herein, effective December 3, 2015, except Section 4 Executive Clemency and Attachment 2, which are stricken with amended changes of PPTB Clemency rule, completely. See new PPTB Clemency rule as referenced herein.

<b>Signature on File</b> John Felts Chairman	<b>Signature on File</b> Richard Brown, Jr. Vice-Chairman	<b>Signature on File</b> Dawne B. Vandiver Secretary
<b>Signature on File</b> John Belken Commissioner	<b>Signature on File</b> Abraham Carpenter, Jr. Commissioner	<b>Signature on File</b> Jimmy Wallace Commissioner
<b>Signature on File</b> Andy Shock Commissioner		

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## **1 - BOARD MEMBERSHIP, ELIGIBILITY, RESPONSIBILITY, TRAINING, AND OFFICERS**

The Arkansas Parole Board (“the Board” or “Board”) is composed of seven full time members appointed by the Governor and confirmed by the Senate. Each member is appointed for a term of seven years, except that the terms shall be staggered by the Governor so that the term of one member expires each year. If a vacancy should occur on the Board prior to the expiration of a term, the Governor shall fill the vacancy for the remainder of the unexpired term, subject to confirmation by the Senate at its next regular session.

The Governor may remove a Board member, upon referral by the Chairman, when that member has been determined to have been derelict in their performance or if they no longer meet the eligibility criteria prescribed by law. A member referred to the Governor for removal, shall be notified in writing, via USPS certified mail, of the referral. The notification shall include at a minimum: (1) a copy of the referral submitted to the Governor and (2) any supporting documentation provided to the Governor. A referral to the Governor, and the subsequent notice to the member, to include supporting documentation, shall be made a part of the member’s personnel record and may not be disclosed prior to the final administrative resolution of the referral (i.e. retention, removal, suspension, or probation). Upon notification to the Governor the member of the Board shall be allowed an opportunity to respond within seven (7) days.

For those persons eligible for parole, the Board has statutory authority to determine what persons will be placed on parole and to set the time and conditions of the parole. The Board will conduct open meetings and make public its findings for each eligible candidate for parole. However, inmate interviews may be closed to the public at the request of the inmate. Subject to an order of the Board to the contrary, related deliberations are closed to the public.

The Board is also responsible for reviewing all pardon and commutation applications and making non-binding recommendations to the Governor [pursuant to new PPTB Clemency rule, hereby incorporated by reference herein.](#)

Board Members, Parole Revocation Judges, and Support Staff are responsible for carrying out the Board’s mission and complying with applicable laws; and all policies within this manual.

Board members should not seek or hold public office which would represent a conflict of interest while on the Board. Prior to seeking public office, the member should notify the Chairman of any potential conflicts of interest.

No member of the Board shall hold any outside employment for the duration of his or her appointment to the Board. A member of the board may engage in employment that has a limited time commitment and has been approved, in writing, by the Chair. The determination of a “limited time commitment” shall be at the discretion of the Chair and subject to revocation at any time. A revocation of an employment waiver shall be provided in writing to the member by the Chair. Both the approval and any subsequent waivers shall be made a part of the member’s personnel record.

State law requires that each member must have at least a bachelor’s degree from an accredited college or university, and should have no less than five (5) years of professional experience in a field listed below. If a member does not have a bachelor’s degree from an accredited college or university, they must have (7) years of professional experience in one of the fields listed below:

1. Parole Supervision;
2. Probation Supervision;
3. Corrections;
4. Criminal Justice;
5. Law;
6. Law Enforcement;
7. Psychology;
8. Psychiatry;
9. Sociology;
10. Social Work or;
11. A related field

The American Correctional Association (ACA) recommends that the racial makeup of the Board should be representative of the diversity of the significant population under its jurisdiction

If the composition of the Board does not meet this standard, the Chairperson will bring this issue to the Governor's attention during the selection process for a new Board member.

Whether or not they have served on the Board previously, a member appointed after July 1, 2011, shall complete a comprehensive training course developed in compliance with guidelines from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association.

All members shall complete annual training developed in compliance with guidelines from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association.

Training components shall include at a minimum an emphasis on the following subjects:

1. Data-driven decision making
2. Evidence-based practice
3. Stakeholder collaboration
4. Recidivism reduction

A Parole Revocation Judges may be subject to the same training curriculum developed for members of the Board.

The Governor shall designate one member as the Chair of the Board who shall serve at the Governor's will. As set forth in State law, the Chair shall serve as the chief executive, administrative, budgetary, and fiscal officer of the Board. No rule or policy, to include administrative directives or memoranda, shall be interpreted to in any way limit the authority of the Chair as prescribed by State law.

The Board shall elect, during the first regular meeting after February 1<sup>st</sup> of each year, a Vice Chair and a Secretary to serve as officers for the upcoming year. If the office of Vice-Chair or Secretary becomes vacant in the interim, the Board shall elect, at its next regular meeting, a member to serve in that office until the next regular election. A special election of officers may be called at any time at the request of five (5) members of the Board. The Vice-Chair and the Secretary shall assume, in that order and with the consent of the Governor, the duties of Chair in the case of extended absence, vacancy, or other similar disability of the Chair until the Governor designates a new Chair of the Board. Prior to assuming the duties of Chair, the Vice- Chair or Secretary shall notify the Office of the Governor and provide a summary of the situation requiring the assumption of those duties.

## 1.1 - Quorum and General Voting Information

A quorum of four members is required to hold a meeting of the Board. If a case that is discretionary fails to receive five (5) affirmative votes, the inmate shall be reconsidered for parole or transfer after one (1) year from the date of the Board's vote. If a case that is non-discretionary fails to receive five (5) affirmative votes, the inmate shall be reconsidered after 6 months from the date of the Board's vote

All parole cases reviewed by a single member shall be reviewed by the full Board for agreement prior to a final decision. The review shall consist of the single member

~~Board practice is to have 7 members vote on executive clemency death sentence cases and a minimum of five (5) votes on other clemency requests.~~

## 1.2 - Recusal

No member of the Board or a Parole Revocation Judge should participate in the determination of any matter before them if they:

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

Generally, the responsibility for determining the appropriateness of recusal under the guidelines established by this policy shall be upon that member or Parole Revocation Judge. The Chair may order that a member or Parole Revocation Hearing Judge recuse themselves from a case.

In establishing these guidelines for recusal, it is not the intent of the Board to create a right or basis to challenge the actions of this Board, any member of the Board, or Parole Revocation Judge which is not otherwise provided by the laws or Constitution of this State or the United States. In the event a Board member or Parole Revocation Judge recuses, or is removed, from a parole, transfer, ~~clemency~~, or revocation case, this action is final and cannot be reversed. A member who recuses, or is removed, from a case shall be counted in determining whether a quorum exists or if a sufficient number of votes were made on the case.

## 2 - CONSIDERATION OF INMATES ELIGIBLE FOR PAROLE / TRANSFER

### 2.1 - General Information

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

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

The ACC Institutional Release Services (IRS) staff will prepare case records for use by Board members in conducting case reviews and hearings, as required by Arkansas law. Preparation by ACC IRS for an inmate’s review shall begin no later than six (6) months prior to that inmate’s eligibility date. Board staff will manage these case records to ensure timely review/hearings.

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

## **2.2 - Risk/Needs Assessments**

The Board shall consider the results of a validated risk/needs assessment tool as a part of all release decisions. That same assessment will also influence any conditions of release. The assessment will be administered by staff from ADC and/or ACC in a manner authorized by the Board.

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

The Arkansas Code Annotated 16-93-614, 615, 616, and 617 allows for the transfer of inmates who have committed certain crimes on or after January 1, 1994, under the provisions of a transfer date, to be transferred to parole status by the ADC subject to rules and regulations promulgated by the Board of Corrections and conditions set by the Board. The electronic Offender Management Information System (eOMIS) assigns a transfer eligibility (TE) date to inmates who are in this “transfer eligible” category (other inmates who are eligible for parole are assigned a “parole eligibility (PE)” date).

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

1. Transfer the inmate to the ACC with specified conditions such as supervision level, programming requirements, and facility placement when appropriate. Conditions must be within the current resources of the ACC; or
2. Deny transfer to the inmate, based on established criteria, until the inmate completes a course of action established by the Board that would rectify the Board’s concerns. After the completion of the required course of action (which must be within the current resources of the ADC), and final review of the inmate’s file to ensure successful completion, the Board will be required to transfer the inmate to the ACC in accordance with administrative policy and subject to conditions attached to the transfer. Should an inmate fail to complete the course of action outlined by the Board to facilitate their transfer to community supervision, it shall be the responsibility of the inmate to petition the Board for a rehearing. In these cases, there will not be an automatic rehearing.

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



assessment review that special conditions need to be placed on the inmate.

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

The Institutional Release Officers (IRO) will use eOMIS information and procedural guidance to determine whether the Board can screen an inmate's records and release the inmate without a hearing, or whether a hearing is required. The IRO advises the Board of the options in this regard.

Inmates who are assigned to Varner SuperMax or who are in administrative segregation should be reviewed to determine class and the level of the Varner SuperMax program completion. An inmate may be reviewed by a single member, but the file shall then be forwarded to the full Board for hearing and final determination. Final determination is subject to review by the Board. Unless otherwise determined by a of the Board, an inmate incarcerated at the Varner SuperMax Unit who has failed to attain Level 5 will not be granted a rehearing by the Board unless and until such level has been attained.

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

The following classes of inmates shall be considered for discretionary transfer to the ACC. Discretionary transfer means the Board can deny parole with or without recommending a course of action to the inmate. Even if a course of action is recommended and completed, the Board is not required to release the inmate to community supervision.

- Inmates who, after January 1, 1994, commit Murder in the First Degree, Engaging in a Continuing Criminal Enterprise, or the following Class Y felonies: Kidnapping, Rape, Aggravated Robbery, or Causing a Catastrophe.
- Inmates who on or after July 30, 1999 commit Capital Murder, Murder in the Second Degree, Manslaughter, Negligent Homicide , Sexual Assault in the First Degree, Sexual Assault in the Second Degree, Sexual Abuse in the First Degree, Battery in the First Degree, Domestic Battering in the First Degree, or Simultaneous Possession of Drugs and Firearms.
- Inmates who, on or after February 20, 2013, commit an offense for which they are required upon release to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.
- Inmates who, on or after August 16, 2013 commit Attempted Capital Murder, Attempted Murder in the First Degree, any offense listed under A.C.A. § 5-54-201 et seq. (Terrorism-related offenses), or the following Class Y felonies: Attempted Aggravated Robbery, Terroristic Act, Arson, Aggravated Residential Burglary, or Unlawful Discharge of a Firearm from a Vehicle.

- Inmates who, on or after April 2, 2015 commit Battery in the Second Degree, Aggravated Assault, Terroristic Threatening, Residential Burglary, or Domestic Battering in the Second Degree.

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

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

Note: The same standard of review listed in this section shall apply to all inmates whose crimes were committed prior to January 1, 1994 (Parole Eligible).

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

For inmates with a PE date, the Board has discretionary transfer authority. A Board "discretionary transfer" hearing will be conducted for all inmates with a parole eligible (PE) date, unless the inmate waives the hearing in writing. Board members will use the release decision criteria listed on page 8 of this manual as a basis for deciding whether to approve a transfer.

## **2.6 – Inmates Determined to be a Detriment to the Community**

The Board may deny parole to any otherwise eligible inmate, regardless of the sentence that he or she is serving, if five (5) members of the Board determine that the inmate upon release would be a detriment to the community upon release as defined in A.C.A. § 16-93-101.

A Board member recommending a denial under this section must provide a written justification that the inmate meets the definition a detriment to the community. The written justification shall be made a part of the inmate's parole hearing record.

## **2.7 - Foreign Nationals**

Parole consideration must be the same for foreign nationals. Their status or inability to return to their home country must not affect a parole decision. A foreign national may be paroled to their home country when informal arrangements can be made for the transfer and when the inmate consents. The Board shall consider the placement of post-release conditions on offenders released to their home country or an immigration detainer. The condition(s) will take effect upon their reentry to the United States.

## **2.8 - Time Computation**

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

## **2.9 - Notification of Officials**

The Board will use Form 153 (Attachment 1: Law Enforcement Response) to solicit the written or oral recommendations of the sentencing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed.

At the time that a person is paroled or transferred by the Board, the Department of Community Correction shall give written notice of the granting of the release or transfer to the Sheriff, the Judge, and the Chief(s) of Police of all cities of the first class of the county from which the person was sentenced.

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

## **2.10 - Consideration and Release of Victim Impact Statements**

Before determining whether to release an inmate on parole, the Board shall permit the victim to present a written victim impact statement at a victim impact hearing conducted by one of more members of the Board, concerning the effects of the crime, the circumstances surrounding the crime, the manner in which the crime was perpetrated and the reason(s) for the victim's opposition to the inmate's potential parole. The Board shall ensure that notification of this right is provided to all victims registered with the ADC. If the victim has expressed a documented desire to not be notified of future parole hearings, no notification will be made. For those wishing, and eligible, to attend a victim impact hearing, it is the responsibility of the victim to express their desire to attend a victim impact hearing and to provide current contact information to the Board or its designee.

At the discretion of the Board, a victim impact hearing may be conducted through the video conference technology.

The Board shall consider impact statements written by the victim. These written statements may be in lieu of, or in addition to, an oral victim impact statement. An impact statement written by the victim of a sex crime as defined by A.C.A. § 16-90-1101 or the Sex Offender Registration Act of 1997, § 12-12-901 et seq., is privileged. It shall not be disclosed, directly or indirectly, to any person other than a member of the Board, its authorized agents, a court, or other person, excluding the inmate, entitled under state law or Board policy to receive the statement.

The Board or a court of competent jurisdiction may order the disclosure of an impact statement written by the victim of a sex offense when the Board finds that the interests of the inmate outweigh the privacy and safety interests of the victim or to enhance the accuracy of the Board's determination.

An inmate eligible to receive an impact statement written by their victim shall only receive it upon a written request. The inmate's request shall be submitted to the Institutional Release Officer assigned to their unit. The Institutional Release Officer will in turn submit the request to the ACC Public Information Office and the Board for fulfillment. The Board, or the ACC Public Information Office, shall redact the following information from an impact statement written by a victim prior to releasing the statement to the inmate:

- Any information protected by Federal or State privacy laws;
- The address of a victim, their parent, legal guardian, and/or their next of kin;
- Any information that could reasonably be used to determine the location of a victim, their parent, or legal guardian, and/or their next of kin;

The Board shall ensure that a victim is notified of the release of an impact statement written by them. The notification shall consist of:

- The inmate's name and ADC number;
- The date the statement was released; and
- A copy of the released statement.

No other information related to a victim may be released by the Board or an agent of the Board unless required by Federal and/or State Law.

For the purposes of this policy, "victim" is defined as someone who is the victim of a:

- A sex offense as defined by the Sex Offender Registration Act of 1997, § 12-12-901 et seq.;
- A sex offense as defined by A.C.A. § 16-90-1101;
- An offense involving the use of a deadly weapon, terroristic threatening in the first degree, § 5-13-301(a), and stalking, as defined in § 5-71-229;
- An offense against a victim who is a minor;
- A violent offense as defined by A.C.A. § 5-4-501(d)(2);
- An offense subject to the discretionary transfer authority of the Board; or
- An offense committed by an inmate previously determined to be a "detriment to the community" in accordance with A.C.A. § 16-93-101.

For the purposes of this policy, "offense against a victim who is a minor" is defined as:

- Kidnapping pursuant to § 5-11-102(a)(4) when the victim is a minor and the offender is not the parent of the victim;
- False imprisonment in the first degree pursuant to § 5-11-103 when the victim is a minor and the offender is not the parent of the victim;
- Permanent detention or restraint pursuant to § 5-11-106 when the victim is a minor and the offender is not the parent of the victim;
- Any sex offense when the victim is a minor;
- An attempt, solicitation, or conspiracy to commit any of the offenses listed above;
- An adjudication of guilt for an offense of the law of another state, for a federal offense, or for a military offense, which is substantially equivalent to any of the offenses listed above; or
- A violation of any former law of this State that is substantially equivalent to any of the offenses listed above.

If a victim has requested notification, notice will be provided once the Board's decision on the case has been finalized.

## **2.11 - Release Hearing Preparation and Guidelines**

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

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

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

Inmates shall be allowed to select and identify persons to appear before the Board in support of his/her potential release on parole. These persons should be chosen for their ability to provide information to the Board relevant to the inmate's potential release. The persons chosen by the inmate must meet the attendance criteria established by the ADC. Victims who arrive at a unit to attend the inmate's hearing will not be admitted to the hearing. Under Arkansas law, the victim is entitled to a separate hearing with the Board.

## **2.12 - Parole Hearing Designee**

The Board may designate a ~~panel~~ parole revocation judge or investigator employed by the Board to interview inmates for possible parole, or transfer. A parole revocation judge or investigator designated to conduct a hearing may only prepare a summary of the hearing and make a non-binding recommendation to the Board.

The Board may also secure the assistance of professionals (i.e. a mental health or a language interpreter) to enhance in their ability to conduct a hearing.

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

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

In making its determination regarding an inmate's release or discretionary transfer, the Board must consider the following factors:

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

### **2.14 - Conducting a Release Hearing**

All hearings will be conducted in privacy unless the inmate requests otherwise in accordance with applicable State law and ADC policy. All deliberations shall be closed to the public in accordance with applicable state law. Individual case information will be kept confidential to the extent allowed by A.C.A. § 16-93-202. Prior to the hearing, Board members must review information available about the offender's prior history, current situation, events in the case since any previous hearing, information about the offender's future plans and relevant conditions in the community. The Board member conducting the hearing is responsible for making a record of the major issues and findings in a summary of interview.

The Chairman, in consultation with Board staff and staff from the ADC and ACC, will decide if video conferencing will be used at a given hearing and who will participate by way of video conferencing. Video conferencing is an appropriate option in certain circumstances, including

the following; to meet urgent deadlines, when severe weather conditions prevent the safe travel of Board members, or when it would be the most effective and efficient use of manpower and budgetary resources.

In advance of the hearing, the inmate will be notified about their hearing may be conducted via video. If it is apparent that participating in a hearing conducted via video will create an undo hardship due to a documented disability, the Chairman will make arrangements for certain accommodations and/or ensure that an inmate is seen in person.

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

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

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

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

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

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

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

### **2.16 - Processing and Transmitting Release Decisions**

The ACC IRS office is the designated entity for processing all Board decisions relating to parole/transfer (grant, denial, or deferral) and Executive Clemency (a recommendation of with or without merit). The Board will record all votes and verify the accuracy of all records.. Once IRS has been notified that voting is complete, a copy of the decision will be made available to each Institutional Release Officer (IRO) at the various ADC and ACC units. The decision of the Board will then be given to the inmate in a manner consistent with unit policy. Refer to the "Release Decision Summary" section below for additional information.

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

## **2.17 - Release Decision Summary.**

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

When used, interview worksheets shall be made available upon request following the release of the Board's decision.

## **2.18 - Release of an Inmate with an Incurable Illness, who is Permanently Incapacitated, or who is Eligible for Hospice Care**

When, in the independent opinions of a physician employed, or contracted by the ADC or ACC and a consultant physician from the State at-large, an inmate, who is not serving a sentence of life or life without parole, has an incurable illness which, on the average, will result in death within twenty-four (24) months, is permanently incapacitated, or would be a suitable candidate for hospice care, the Director of the ADC or the Director of the ACC shall make these facts known to the Board.

The Board shall request all such information that is germane to determining an inmate's suitability for parole supervision. If the facts warrant and the inmate's physical condition no longer makes them a threat to public safety, the Board may approve the inmate for immediate transfer to parole supervision.

An inmate is not eligible for parole under A.C.A. §12-29-404 if:

1. The inmate is required to register as a sex offender under Arkansas Code Ann. §12-12-901 et seq. and has been assessed as a Level Three (3) or four (4) for community notification; or
2. A victim of one or more of the inmate's sex offenses was 14 years of age or younger.

The Board may revoke an inmate's parole supervision granted under this section if, after notification, it is determined that the offender's medical condition improves to the point that they would initially not have been eligible under A.C.A. § 16-93-708 or § 12-29-404. Revocation proceedings for an offender released under this section shall follow all legal requirements applicable to parole and shall be subject to any additional policies, rules, and regulations set by the Board.

## **2.19 - Modified Release Guidelines for Short-Term Offenders**

Arkansas Code Annotated § 16-93-710, authorizes the Board to set modified hearing guidelines for offenders who have a sentence of 2 years or less and become Transfer Eligible while in the county jail.

Upon notification of an offender's eligibility by the ADC, the ACC shall immediately make all necessary notifications to law enforcement officials and victims (See "Notification of Officials and Victims"), schedule the offender for a hearing, and assemble the hearing file for the Board's review. The ADC shall expedite the intake of eligible offenders.



The Board shall consider the file as a screening. All other standard hearing processes shall be followed.

At the discretion of the Board, eligible offenders may be paroled directly from the County Jail Back-up List. If an offender is to be released directly from the County Jail Back-up List, their file must be reviewed by the Board no later than 6 months prior to their eligibility date. The Board shall work collectively with both ADC and ACC to develop guidelines for these offenders.

- Any offender convicted under A.C.A. § 5-4-501(c)(2) or of a Class Y felony shall be ineligible for release under this option. As determined by the county sheriff, an offender who has committed a violent or sexual act while incarcerated in a county jail facility shall be ineligible for release under this option.

For offenders with a sentence greater than two years, the Board shall establish procedures sufficient to mitigate the risk of those offenders becoming Transfer Eligible while in the county jail. The Board Chairman shall designate an employee of the Board to regularly review the ADC County Jail Back-up List and compile the names of offenders whose intake needs to be expedited by the ADC. This compiled list shall consist of those individuals who are within 6 months of becoming Transfer Eligible but may be expanded in scope as the need arises. This list shall contain at a minimum the names, ADC #, and county where these offenders are being held. Once this list is certified by the Board Chairman or their designee, it shall be transmitted to the ADC and they shall in turn schedule these offenders for intake.

Once these individuals are brought in to the Department, ADC shall notify ACC-Institutional Release Services of their Intake. ACC shall immediately begin the process of scheduling these offenders for the next upcoming Board. Offenders with non-discretionary convictions and those without an active conviction for a sexual offense shall be transmitted to the Board as a screening. Offenders whose conviction is discretionary and those who have an active conviction for a sexual offense shall be scheduled for a hearing. Offenders convicted of "Failure to Register" on a discharged registerable offense shall be scheduled for a screening.

## **2.20 - Electronic Monitoring of Offenders**

Based on the pre-established criteria in Arkansas Code Ann. §16-93-711, the Director of ADC or ACC will request the Board consider the release of certain inmates to electronic monitoring after they have served 120 days of their sentence. The Board will consider these offenders under the normal guidelines that apply to the screening process.

Inmates released under this section shall remain on electronic monitoring for at least 90 days or until their transfer eligibility date, whichever is sooner.

## **2.21 - Early Release Program for Offenders to Transitional Housing Facilities**

Act 679 of 2005

Offenders held in the Department of Correction (ADC), other than those excluded below, shall be eligible for early release to a transitional housing facility, or an equivalent entity, licensed by the Department of Community Correction (ACC) up to one (1) year prior to the offender's date of eligibility for parole or transfer. An offender's home or the residence of an offender's family member shall not be considered a transitional housing facility for the purposes of this program.

Offenders released under this program must reside at an approved transitional housing facility until they reach their parole or transfer eligibility date.

It is determined that there is a reasonable probability that an offender within one (1) or more of the following categories cannot be placed in a transitional housing facility under the provisions of this program without posing a detriment to the community or themselves. Therefore an offender is not ineligible for this program if:

1. They have failed to maintain Class I or II status at the time of application or between the time of their hearing and release to the transitional housing facility.
2. They have served less than 6 months in the ADC. Time served in the county jail shall not be counted toward program eligibility.
3. They have an active conviction for a felony involving violence, as defined under § 5-4-501(d)(2)
4. They have ever been convicted of any offense requiring registration under § 12-12-903 (Sex Offender Registration Act of 1997).
5. They have an active conviction for, or documented criminal history of, any offense determined by the Board to, by its nature or definition, involve violence, the threat of violence, the potential threat of violence, or the disregard for the safety of the lives of others.
6. They have ever received a disciplinary while incarcerated, or conviction (§§ 5-54-110 – 5-54-112), for behavior related to an escape, or an attempted escape, from the ADC, ACC, or another law enforcement agency.
7. They have an active detainer or felony warrant lodged against them by another law enforcement agency or jurisdiction.

The Board may, upon request by the Director of ACC or their designee, consider granting a waiver to an offender otherwise excluded by the program's eligibility rules. The request shall be based at minimum on the following factors:

1. The results of a validated risk-needs assessment.
2. The recommendation of field supervision staff, staff trained in area of offender reentry, and/or institutional or community-based treatment professionals;
3. The belief of the Director, or their designee, that placement in a transitional housing facility will not pose a detriment to the community or the offender.

Prior to implementation of the above process, the Director of ACC shall provide the Board with an outline of the procedures that will be utilized in making this determination. The Board shall, in an open meeting, adopt said procedures prior to their implementation. The same process of notification and adoption shall be utilized for any subsequent changes in any procedure previously adopted by the Board.

Eligible offenders shall submit a written request to the Board for consideration under this program through their unit Institutional Release Officer (IRO). The request shall at minimum be accompanied by confirmation that the offender has been accepted as a resident of a licensed transitional housing facility upon release. Once a request has been received and the offender's eligibility has been determined, the offender shall be scheduled for an Act 679 hearing before

the Board. Offenders granted a waiver by the Board based upon the request of the Director of ACC, or their designee, shall be scheduled once the unit IRO is notified of the decision by the Chairman or their designee. Hearings scheduled under this program shall follow the distribution of all applicable notices under § 16-93-615 and all applicable policies established by the Board pertaining to a parole/transfer hearing and by ACC pertaining to parole plan approval.

Inmates released under this program shall be supervised by officers of the ACC under the guidelines of the Act 679 Conditions of Release established by the Board (see Board Manual Attachments). The conditions must be based on a reasoned, rational plan developed in conjunction with validated risk-needs assessment and include at minimum a curfew requiring an offender placed in a transitional housing facility under this program to present themselves at a scheduled time to be confined in the transitional housing facility. Prior to release, ACC shall require offenders to sign a statement acknowledging: (1) their receipt and understanding of the Act 679 Conditions of Release (2) their receipt and understanding of, and willingness to adhere to, facility rules and (3) their parole or transfer eligibility date.

An offender who without permission leaves the custody of the transitional housing facility in which he or she is placed, prior to their parole or transfer eligibility date, may be subject to criminal prosecution for escape, §§ 5-54-110 – 5-54-112. Facilities receiving an offender released under this program shall be provided with information by ACC on reporting an offender who without permission leaves the custody of the facility prior to their eligibility date.

Revocation of placement in transitional housing must follow the revocation proceedings established in § 16-93-705.

## **2.22 - Consideration of Act 146 of 2015 Reentry Program Participants**

In accordance with A.C.A. § 12-27-127, the Board may release from incarceration an inmate who has been:

1. Administratively transferred from the ADC to the ACC for the purpose of participating in a reentry program administered by the ACC of at least six (6) months in length; and
2. Determined by the ACC to have successfully completed its program.

At the request of the ACC, the Board may screen inmates prior to their administrative transfer from the ADC in order to provide non-binding guidance on their suitability for reentry programming.

Sixty (60) days before their projected program completion date, an inmate participating in a reentry program administered by the ACC shall be scheduled for a release screening. In order for the Board to determine the character of the inmate being considered for release, the scheduling of release screening shall be accompanied by a notice from ACC IRS to the sentencing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed. The notice shall solicit their oral or written recommendation relating to the inmate's potential release. The scheduling of a release screening shall also be accompanied by the notification from ACC IRS to any registered victims, the victim's parent or legal guardian, or the victim's next of kin regarding the inmate's potential release and their right to provide a written or oral statement to the Board in accordance with applicable State law and Board policy.

When conducting a release screening for an inmate participating in a reentry program

administered by ACC, the Board shall only have the following options:

1. Order the inmate's release to community supervision upon program completion; or
2. Deny the inmate's release to community supervision.

An inmate whose release is granted subject to program completion who then fails to complete the program shall have their release rescinded. If the inmate's release is rescinded or denied, he or she shall be administratively transferred back to the ADC, and shall be eligible to be considered by the Board six (6) months prior to their PE/TE date.

A decision to deny or rescind the inmate's release to community supervision shall not be made public until the inmate has been returned to a secure facility administered or contracted by the ADC.

### **2.23 - Discharge Planning**

The Board shall engage in a coordinated program of discharge planning to ensure the effective and efficient reentry of inmates in to society. At least 120 days before an inmate's anticipated release date, Board shall work with the ADC and the ACC to complete a prerelease assessment and reentry plan. The Chair of the Board shall designate 1 or more members of the Board or support staff to monitor this process and ensure that all stipulated programs and conditions of release are made a part of the reentry plan.

### **2.24 - Supervision of Parolees**

Supervision of parolees is done on behalf of the Board, by the Department of Community Correction. In consultation with the Board, ACC is authorized to establish written policies and procedures for the supervision of parolees. The supervision of parolees shall be based on evidenced-based practices including a validated risk/needs assessment. Decisions shall target the parolee's criminal risk factors with appropriate supervision and treatment designed to reduce the likelihood to reoffend. Further guidance for parole supervision can be found in Arkansas Code Ann. §16-93-712

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

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

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

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

## **2.25 - Appeal of Board Decision**

An inmate or his/her attorney may request reconsideration of any parole decision of the Board within sixty days of the official vote of the Board. The request must be made in writing. Requests for reconsideration may be submitted through the Unit's IRO or to the Board. Only one reconsideration request will be considered by the Board ~~for a particular Board action~~ per decision. A request for reconsideration shall only be granted following the affirmative vote of no less than five (5) members of the Board.

## **3 - RELEASE REVOCATION**

### **3.1 – Jurisdiction and Authority**

Pursuant to A.C.A. § 16-93-206, "the Parole Board shall serve as the revocation review board for any person subject to either parole or transfer from prison. Revocation proceedings for either parole or transfer shall follow all legal requirements applicable to parole and shall be subject to any additional policies, rules, and regulations set by the Board."

### **3.2 - Designee for Conducting Hearings**

The Board's designee for conducting ~~release~~ preliminary and revocation hearings is the Parole Revocation Judge (PRJ). However, the Board shall retain the right to exercise any authority delegated to the PRJ.

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

When a parolee has committed a violation (other than those referenced in the following paragraph) that results in a violation report, a warrant is issued when the parolee's presence in the community, pending disposition of a Revocation Hearing, would present unreasonable risks to public or individual safety or when it is very likely that the parolee will abscond. Supervision officers shall utilize violation reports to provide the information necessary for the Board to determine if these criteria have been met. The officer should compile and submit the violation report within three (3) calendar days of the decision to bring the parolee to a hearing or the offender being arrested on a new charge, unless a waiver of the submission deadline has been granted by the Board or its designee. The Board will review the violation report and issue a warrant only when the aforementioned mentioned criteria is met and within two (3) working days of the Board's receipt of the violation report; excluding, weekends, holidays, and acts of nature. However, the evidence does not need to rise to the same standard of probable cause required for arrest and criminal charges. This does not prohibit the supervision officer from arresting and detaining the parolee with a "white warrant" until the offender's preliminary or full parole revocation hearing or when directed by Board policy to arrest and detain the offender on

the Board's warrant.

If a parolee has been charged with a felony involving violence, as defined under § 5-4-501(d)(2) or a felony requiring registration under the Sex Offender Registration Act of 1997, § 12-12-901 et seq. (Refer to Attachment #7), the Board shall issue a warrant for the arrest of the parolee. Supervision officers shall utilize the violation report to provide the information necessary to issue a warrant under this paragraph. The violation report should be received by the Board within 3 (three) calendar days of the offender's arrest; unless a waiver of the submission deadline has been granted by the Board or its designee.

A parolee arrested on a warrant issued under the previous paragraph shall be detained pending a mandatory Revocation Hearing.

### **3.4 - Waiver of Parole Revocation Hearing**

When an offender has committed a serious technical violation or a repeated pattern of minor violations, and the parolee meets eligibility requirements established by written policy of the ACC for the Technical Violator Program (TVP), the Board authorizes a supervision officer to prepare a violation report, give notice to the parolee and sanction the offender to the TVP provided the offender knowingly and intelligently signs a hearing waiver.

An offender may knowingly and intelligently waive his/her right to a hearing and be returned to the ADC or placed in an ACC Regional correctional Facility (RCF). A waiver to the ADC or ACC-RCF must be signed by a member of the Board or a Parole Revocation Judge. An offender returned to the ADC on a hearing waiver shall be eligible for release consideration after serving no less than 30 days. An offender placed in an ACC-RCF on a hearing waiver shall be eligible for release consideration after serving no more than six (6) months.

An offender shall be made aware of his/her right to knowingly and intelligently waive his/her right to a hearing prior to the hearing. At this point the offender shall also be made aware of the possible outcomes of a Revocation hearing.

If a hearing waiver is granted, the parolee may subsequently appeal the waiver to the Board. An appeal of a hearing waiver shall be made in the manner listed below. However the filing of an appeal may not suspend the transport of an offender to a residential treatment program or the ADC, ACC-RCF, or TVP.

- The appeal must be made in writing by the parolee or his/her attorney to the Board within thirty (30) days from the date the hearing waiver is signed by the parolee unless the time period or other requirements are waived by the Board.
- In the written appeal, the parolee or his/her attorney may request a general review of the hearing waiver only and ask that it be rescinded and a hearing be scheduled. The parolee or his/her attorney should state in the appeal specific reasons for the belief that the hearing waiver should be reversed.
- The appeal shall be presented to the Board as soon as practical after it is received. The Board may request statements in response to the appeal from the PRJ or member of the Board that signed the waiver and/or the parolee's supervising officer.

- A Board member who signs a hearing waiver shall not consider any subsequent appeals of the waiver and/or revocation hearing decision.

Upon the consideration of the waiver appeal, the Board may, by no less than five (5) affirmative votes, order a new Revocation hearing or amend the length of the hearing waiver.

### **3.5 - New Felony Charges**

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

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

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

If a parolee is found to have violated a condition(s) of his/her release, the Board or PRJ may still return the parolee to supervision, impose additional conditions of release, order placement in ADC, (or if eligible), ACC-RCF, the Technical Violator's Program, or utilize an appropriate alternative to incarceration. If placement in a facility administered or contracted by ADC or ACC is ordered, immediate transport to the nearest reception/intake facility may also be ordered when space for the offender is available and when authorized in writing by the Chair of the Board

When making a revocation decision, the full range of alternatives to incarceration and available treatment options should be considered, in addition to considering the benefit of incarceration to the offender and the general public. During the hearing, the Board member or designee conducting the hearing may confer with the supervision officer to determine the best course of action for the offender based on the nature of the violation(s), supervision history, and available resources.

### **3.7 - Actions When Revoked**

If the offender's supervision is revoked, the Board member or PRJ conducting the hearing will complete appropriate sections of the hearing disposition form. The Board member or PRJ will enter the month when the parolee is to be scheduled to appear before the Board using the criteria in the following section. This month is entered even when the parolee is sent to the TVP because the parolee may subsequently be transferred to ADC for disciplinary reasons in which case the date would apply.

### **3.8 - Determining the Release Hearing Date**

On the disposition of revocation hearing form, the Board member or PRJ will indicate the month the parolee will be scheduled for a release hearing. A Board member or PRJ may revoke an offender's release for up to one (1) year provided they are being revoked to the ADC. An offender revoked to an ACC-RCF may only be revoked for up to 6 months.

### **3.9 - Release Revocation Process**

At a revocation hearing, the Board member or PRJ conducting the hearing must seek and consider evidence that supports or counters the violation charges as well as any extenuating or mitigating circumstances that suggest that the violation does or does not warrant revocation of the parolee's supervision.

The Board member or PRJ conducting the preliminary or revocation hearing must allow the parolee and his/her attorney, when present, to exercise the right to:

1. Present evidence and favorable witnesses;
2. Seek disclosure of evidence;
3. Confront adverse witness(es), unless the witness(es) would be subjected thereby to a risk of harm or when good cause is found to limit the cross-examination by the Board member or designee conducting the hearing;
4. Have counsel of choice present or, in the case of indigent parolees who request assistance to adequately present their case, have counsel appointed; however, the – the Board or its designee may determine that the situation does not justify the expense of a lawyer; and
5. Request postponement of the hearing for good cause. The Board member or PRJ conducting the hearing may require written confirmation of the postponement. Only one (1) postponement may be granted to either party without the written permission of the Chair.

The Supervising Officer will:

1. Request a warrant when an arrest is considered necessary;
2. Arrest and jail a parolee on the Board's warrant as directed by Board policy;
3. Advise parolee of hearing related rights to include the rights a Board member or Parole Revocation Judge must allow as described in the previous paragraph ;
4. Give the parolee notice of the violation, the violation report, and hearing notice 72 hours prior to the hearing date unless the timeframe has been waived by the offender;
5. Offer the parolee an opportunity to sign a hearing waiver prior to requesting a hearing before the Board;
6. Provide the Board with notice, via the violation report, that an offender is eligible to be revoked to an ACC-RCF;
7. Provide the Board with a list of available and appropriate alternatives to incarceration;
8. Transport jailed parolees to scheduled hearings in the county where the alleged violation(s) took place;
9. Be present at hearings to present the case for revocation, and to provide supplemental information and security;



10. Use criteria to set the release hearing month for parolees sent to the TVP (this date is for a release hearing if the revoked parolee is subsequently transferred from the TVP to ADC);
11. Arrange transportation to the TVP, ACC-RCF, or ADC if space is available; and
12. Process any additional supervision conditions.

The Board member or PRJ conducting the preliminary or revocation hearing will:

1. Hold a preliminary revocation hearing when required by law or Board policy. A revocation hearing may be held in lieu of a preliminary hearing. When held, the preliminary revocation hearing shall begin within 14 calendar days of arrest on the Board's warrant, excluding weekends, holidays, and delays caused by acts of nature. A revocation hearing must begin within 14 calendar days of the offender being arrested on the Board's warrant. Failure to conduct a hearing within the aforementioned timeframes shall not preclude the Board or its designee from conducting the hearing;
2. Conduct a hearing where the parolee resides or near the community where the violation is alleged to have occurred or where the parolee has been taken into custody; the Board member or PRJ conducting the hearing may be at a remote location using a telephone or video conference system;
3. Complete the hearing results and give provide a copy of the hearing report to the supervising officer. This hearing report will include a statement of the reasons for the determination made and the evidence relied upon to include a summary of documents presented and responses made at the preliminary or revocation hearing. The offender shall be furnished a copy of the hearing report within 21 calendar days of the completion of the preliminary or revocation hearing, excluding weekends, holidays, and delays caused by acts of nature; and
4. Order that the offender be arrested on the Board's warrant when the arrest of the offender would enhance their safety or the safety of the public, or when otherwise directed by Board policy.

The Supervising Officer will:

1. Provide a copy of the hearing report to the parolee;
2. Retain a copy in the offender's supervision file;
3. Provide a copy to the receiving facility (TVP, ACC-RCF, or ADC).

### **3.10 - Intermediate Sanctions Procedure and Grid**

Notwithstanding any other policy, rule, or regulation, the Board may establish an intermediate sanctions procedure and grid to guide a member of the Board or PRJ in determining the appropriate response to an alleged violation of conditions of supervision.

### **3.11 – Boot Camp Alternative**

Notwithstanding any other policy, rule, or regulation, a member of the Board or PRJ may order the revocation of an offender to an intensified correctional, or Boot Camp, program administered by the ADC. Upon completion of a Boot Camp Program, the offender shall be administratively transferred to supervision in the community. An offender revoked to a Boot Camp program who fails to complete the program, shall not appear before the Board until they have served six (6) months in the ADC. Time served in the program shall not be counted toward determining their length of stay.

Revocation to a Boot Camp Program shall be subject to eligibility guidelines set by the ADC, and only upon certification by the ADC Classification Administrator that the offender meets those eligibility guidelines.

### **3.12 - Appeal of Revocation Decision**

A parole violator may appeal the revocation decision by submitting a written appeal to the Board. Filing of an appeal will not preclude sending the release violator to a residential treatment program or the TVP, ACC-RCF, or ADC. However, the Board or PRJ may choose to suspend sending the violator to the residential treatment facility, TVP, ACC-RCF, or ADC when the Board or PRJ is aware of an appeal or intent to appeal, and if the violator has not yet been taken to the TVP, ACC-RCF, or ADC.

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

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

Upon the consideration of the appeal, the Board may, by no less than five (5) affirmative votes, decide:

1. To affirm the decision of the Parole Revocation Judge;
2. To reverse the decision of the Parole Revocation Judge, or
3. To schedule an appearance by the parolee before the Board for further consideration..

If the revocation hearing was conducted by a member of the Board, that member shall not consider the appeal of the revocation hearing decision.

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

## **4 - EXECUTIVE CLEMENCY**

Please see new PPTB Clemency rule, hereby incorporated by reference herein and made a part hereof for all purposes as if fully set forth herein, effective upon adoption.

### **4.1--~~Overview and Terminology~~**

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

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

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

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

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

~~A pardon request asks that a criminal record be removed from the public record. A pardon is usually requested by a person who is no longer incarcerated. Persons who are not incarcerated submit applications directly to the ACC IRS office in Pine Bluff where background information is gathered.~~

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

#### ~~4.2 – Authority for Executive Clemency~~

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

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

#### ~~4.3 – Eligibility and Application for Executive Clemency~~

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

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

~~Applications for commutations and pardons may also be obtained from the Board's office during normal business hours or from their website. Applications obtained from the Board must still be sent to ACC IRS for processing.~~

~~Inmates serving a death penalty must file an application for executive clemency as described in the application form. Further information on the application process can be found on pages 19- of this manual.~~

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

~~Any person who files for clemency and is denied by the Governor shall not be eligible to reapply for a period of four (4) years from the date of application. If the applicant is serving a life-sentence without parole for a crime other than Capital Murder, they will not be eligible to reapply for six (6) years from the date of denial. If an applicant is serving a sentence of life without parole for a conviction of Capital Murder, they will not be eligible to reapply for eight (8) years from the date of denial. However, a person who is denied by the Governor, can petition the Board for a waiver of the waiting period.~~

#### ~~4.4 - Date and Place of Filing~~

~~An application for executive clemency will be considered as having been filed when it is received by ACC IRS. The address is on the application form.~~

#### ~~4.5 - Required Notice of a Clemency Request and Request for Comment~~

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

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

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

~~For crimes described in this section, the Executive Clemency Coordinator will send notification of the person's application to the victim(s) (or the victim(s)' next-of-kin), at their last known~~

address(es), when the victim/next of kin has registered to receive such notices. The notice will solicit a written or oral recommendation.

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

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

At least five (5) Board members will individually screen each clemency application. Board members will vote to recommend that whether the clemency application is with or without merit or to schedule the person for a hearing before the Board (a hearing is required for death sentence cases). Five (5) affirmative votes shall be required to issue a recommendation or to schedule a hearing. A member of the Board may request supplemental information or take other reasonable actions to ensure a complete investigation prior to making a decision. All Executive Clemency applications shall be returned to ACC IRS once the Board has finalized its decision.

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

#### **4.7 – Hearing Process**

An applicant for executive clemency who appears before the Board may be accompanied by supporters, including his/her attorney. If the person is not incarcerated in this state, his/her appearance before the Board is not necessary. The Board shall consider the statements of the applicant and a spokesperson, the applicant's file, reports from law enforcement, a pre-sentence report and any documentary evidence presented by the applicant or other interested persons, including the victims(s) of the crime, or the victim's' next of kin. On the basis of this information, the Board will vote (1) to recommend that clemency be granted the application is with merit, or (2) to recommend that clemency be denied the application is without merit. If the Board recommends that clemency be granted the application is with merit, it may specify the nature and terms of the commutation being recommended. There are some differences in this process for inmates sentenced to death, as described in the "Supplemental Guidance Pertaining to Death Sentence Cases" paragraph.

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

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

~~the 40<sup>th</sup> day is a Saturday, Sunday, or holiday, an application filed on the next business day will be accepted.~~

~~At least 30 days prior to the execution date, the Board, with a quorum of members present, must conduct a hearing with the inmate who has submitted an executive clemency request. Additional instructions can be found within the attachment section of this manual. In clemency death sentence cases, a hearing is mandatory.~~

#### ~~4.9 – After the Board Review/Hearing~~

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

#### ~~4.10 – Clemency Appeals~~

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

## **5 - BOARD MANAGEMENT AND ADMINISTRATION**

### **5.1 - Committees of the Board**

In order to ensure effective oversight of agency operations, the Chairman may establish certain committees comprised of members of the Board which shall monitor operational areas and/or address certain issues. Members of the Board's support staff may be invited to provide information at the request of a committee. However, only members of the Board shall have the ability to vote in a committee meeting.

Committees of the Board shall be designated as either "Standing" or "Special." The formation, scope, and membership of Standing Committees are established by the provisions of this Manual and may only be altered following the policy revision process outlined in the "Policy Manual Availability and Review" section of this Manual. The Board Chair may refer issues to a Standing Committee not specially listed in its mission and/or scope but which are related to its subject matter. Appointments to Standing Committees shall occur during the same February meeting as the election of Vice-Chair and Secretary. Special Committees may be established at the discretion of the Board Chairman. The scope, duration, and membership of Special Committees shall be limited by the discretion of the Board Chair.

The following are Standing Committees of the Board:

Fiscal Committee – This committee is responsible for monitoring the fiscal activities of the Board and ensuring that appropriate fiscal controls are in place. It is also responsible for making policy recommendations to the Chairman regarding budget, procurement, inventory control, and other related functions. Three (3) working days prior to the last Board meeting in a calendar month, the Board's fiscal officer, or another designated employee, shall file with the Board Chair and Fiscal Committee Chair a report detailing the previous month's expenditures. That same report shall be presented at the upcoming

Full Board Meeting. The report shall contain expenditures by General Ledger Code and provide the remaining fund balance(s) at the end of the reporting period. The Chairman may also direct the Fiscal Committee to review budget requests prior to submission for executive and legislative approval. Membership of the Fiscal Committee shall consist of no less than (3) three Board members but no more than four (4) Board members appointed by the Chair. One of the members must be the Board's Vice-Chair who shall Chair the Fiscal Committee.

Personnel Committee – This committee is responsible for reviewing and recommending changes to agency personnel policies to include but not limited to changes in the Board's Employee Manual and applicable Administrative Directives. The Personnel Committee Chair is responsible to for coordinating an annual review of the Employee Manual and reporting the findings of that review to the Chair, this committee may review applicants for vacant positions within the agency and make hiring/promotion recommendations to the Chair. The Chair may also direct the Personnel Committee to review personnel requests prior to submission for executive and legislative approval. Membership of the Personnel Committee shall consist of no less than (3) three Board members but no more than four (4) Board members appointed by the Board Chair. One of the members must be the Board's Secretary who shall Chair the Personnel Committee.

The Chair may submit budget and personnel request to the full Board for review and approval prior to submission for executive and legislative approval, without first referring them to a Committee.

However, nothing in this Manual, or a related policy, shall be interpreted to limit the ability of the Chair to submit budget and personnel requests for executive and legislative approval without the review and approval of the full Board.

All committees shall meet at the call of the Committee Chair, Board Chair, or a majority of the Committee's membership. Committee Chairs are required to provide adequate notice to the Administrative Services Section of their committee's meeting schedule to allow for the required public notification. Committee Chairs are also responsible for filing a written summary of their meetings with the Administrative Services Section. No committee action shall be considered final until it has been ratified by the Chair or Full Board in accordance with applicable State law and Board policy.

The Chair shall serve as an ex-officio member on all committees.

## **5.2 - Policy Manual Availability and Review**

The Chair of the Board shall:

1. Ensure that ADC and ACC make this policy manual readily available to inmates, residents and parolees;
2. Ensure that this policy manual is readily available online to members and staff of the Board, in addition to members of the general public;
3. Initiate an annual review of this policy manual, and all other Board policies, by the full Board and will ensure that revisions and updates are undertaken when necessary; and
4. Designate a single member of the Board's support staff to maintain this manual.

Revisions to this policy manual must receive the affirmative vote of no less than five (5) members of the Board. Revisions shall not take effect until they have been through the review and approval process as prescribed by Executive Order and in State law.

### **5.3 - Access to Persons and Records**

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

### **5.4 - Legal Assistance**

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

### **5.5 - Inspection of Records**

**5.5.1 General Instructions** - No member of the Board or its support staff shall release information to inmates, members of the media, or the public unless authorized in this manual or in writing by the Chair, or the designee of the Chair.

**5.5.2 Inspection of Parole and Executive Clemency Files** – Pursuant to the provisions of Ark. Code Ann. §16-93-202, the following portions of Parole and Clemency files will be provided by the Chair or the designee of the Chair for inspection upon request by a person having a proper interest therein and whenever the interests or welfare of the person involved make inspection desirable or helpful: 153 forms, Executive Clemency (commutation & pardon) applications, and vote worksheets. The release of any other information not restricted by law requires the expressed permission of the Board Chair. The Board Chair or their designee may release any information to researchers and others involved in monitoring or studying the criminal justice system not restricted by law.

**5.5.3 Online Inspection of Records** – To the extent permitted by federal law, the Board shall cause to be posted on its website the following information concerning an inmate who is being considered for parole no less than six (6) months before his or her PE/TE date, or the date the Board, or its designee, determines eligibility for parole or transfer if inmate is past their PE/TE date:

1. The inmate's name;
2. The inmate's ADC identification number;
3. The inmate's projected hearing date;
4. The number of previous parole and/or probation revocations;
5. The most current photograph of the inmate provided by the ADC or ACC; and
6. A link to the inmate's demographic profile as required by Ark. Code Ann. § 12-27-144.



The Board shall ensure that the information posted is constantly update and also instruct the victim of a crime, the victim's parent or legal guardian, or the victim's next of kin on how to contact the Board and provide information on the inmate. The information posted shall remain available online until the inmate's parole has been either granted or denied.

**5.5.4 Legislative Inspection Records** – Pursuant to the provisions of A.C.A. § 16-93-202(e), the Board shall ensure that an employee assigned to one or more of the following legislative committees has access to view all classification, disciplinary, demographic, and parole hearing records of a current or former inmate or parolee is currently or was formally granted parole by the Board:

1. Senate Committee on Judiciary;
2. House Committee on Judiciary; or
3. The Charitable, Penal and Correctional Institutions Subcommittee of the Legislative Council.

Access shall be granted to the authorized employees through the State's electronic offender management information system (eOMIS). Upon granting access, the Board shall provide the employee with a statement that at minimum includes the following language:

“You have been provided access to the State's electronic offender management information system (eOMIS) for the sole purpose of allowing a member of the General Assembly or an employee of the House of Representatives, Senate, or the Bureau of Legislative Research acting on the member's behalf to view all classification, disciplinary, demographic, and parole hearing records of a current or former inmate or parolee is currently or was formally granted parole by the Board. Unauthorized access or disclosure of data may result in immediate denial of access.

Any record requested to be viewed is privileged and confidential and shall not be shown to any person not authorized to have access to the record and shall not be used for any political purpose including without limitation to political advertising, fundraising, or campaigning.”

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

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

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

Upon approval, the Chairperson, or their designee, shall complete a Certificate of Expungement, which shall be forwarded to the person by the ADC staff.

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

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

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

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

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

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

- An escape from a correctional facility or community program;
- A recapture;
- A decision of the Governor to grant clemency; commute the sentence or to pardon;
- A release from incarceration and any conditions attached to the release; and
- The offender's death

## **5.9 - Facilities and Equipment**

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

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

The Chairperson must accomplish the following:

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

The Chairperson or designee will meet at least annually with the administrative staff of the parole investigation and supervision agency to ensure a means exists for coordinating efforts, to undertake joint planning, and to agree on means of implementing and evaluating such plans. The Chairperson or designee will meet at least annually with representatives of relevant criminal justice agencies, police, prosecution and courts to develop a means of coordinating programs, to undertake joint planning and to agree on means of implementing and evaluating such plans.

Each Board member will visit one or more institutions and a representative sample of community facilities at least annually, specifically for the purpose of meeting with staff and

inmates/residents to exchange information about programs, institutional operations, and parole policies and procedures. The Chairperson, as the chief administrative officer of the Board, is exempted from this requirement. Minutes or notes from such visits must be provided to the Accreditation Coordinator.

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

### **5.11 - Financial Processes and Controls**

The Board must have a budget system which links continuing basis agency functions and activities to the costs necessary for their support. There must be a clearly defined budget which provides for personnel, operating, and travel costs sufficient for the operation of the Board. The Chair must ensure the budgetary process includes financial controls and monitoring of expenses. The Chair must ensure a detailed budget request is submitted and must participate in the legislative budget allocation process. Pursuant to A.C.A. §16-93-201 the Chair may permit the Board to review and approve budget and personnel requests prior to submission for executive and legislative approval.

### **5.12 - Additional Chairperson Duties**

The Chair has the following additional administrative responsibilities:

1. Exercise general supervisory authority over the members and staff to include:
  - a. Organizing, controlling, and tracking the work of the Board's support staff;
  - b. Establishing and regulating Board member work schedules and job assignments; and
  - c. Notifying the Governor that a member of the Board has been derelict in his or her duties or no longer meets the eligibility requirements to serve on the Board and providing written notice of the notification to the affected member.
2. Chair and approve agenda items for Board meetings
3. Serve as the official spokesperson for the Board, or appoint a designee to serve as a spokesperson, as long as the Chair ensures that the fully understands the Board's policies and positions on matters of public interest.

### **5.13 - Personnel & Staffing Guidelines**

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

Parole Revocation Judges must have a minimum of a Juris Doctorate unless there is documented justification of experience that can be reasonably substituted. At least 2/3 of the Parole Revocation Judges must have at 3 or more years experience in a criminal justice or juvenile justice experience, or equivalent experience in a relevant profession

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

The Board will gather data throughout the year from such sources as eOMIS. At least annually the Board will review and analyze the parole decision-making, statistical, and research data.

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

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

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

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

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

The Board and staff will use the eOMIS as a key element in their research and decision-making system.

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

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

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

Beginning October 1, 2011, the Board shall file, in an electronic format, a monthly report to the Chairs of the House and Senate Judiciary Committees, the Legislative Council, the Board of Corrections, the Governor's Office, and the Commission on Disparity in Sentencing. This report shall contain the number of persons who make application for parole and those who are granted or denied parole during the previous month for each criminal offense classification, a breakdown by race of all persons sentenced in each criminal offense classification, the reason for each denial of parole, the results of the risk-needs assessment, and the course of action that accompanies each denial pursuant to § 16-93-615(a)(2)(B)(ii). A copy of this report shall be provided to the Board at its next regular meeting following the filing of the report.

Beginning October 1, 2015, the Chairman, on behalf of the Board, shall quarterly, and electronically, file with the Legislative Council a report containing all new and revised administrative directives issued in the previous quarter by:

1. The Board;
2. The Chairman of the Board;
3. The Administrative Manager of the Board,
4. The Administrator of the Board; and
5. Staff of the Board.

A copy of this report shall be provided to the Board at its next regular meeting following the filing of the report.

The Board will also file an annual report with the Governor’s Office and the General Assembly before February 1 of each year for the preceding year. Following its adoption by the Board, the report shall be filed in an electronic format with the General Assembly and shall be submitted only to the Speaker of the House, the President Pro Tempore of the Senate, the lead sponsor of the legislation authorizing preparation of the report, and the Director of the Bureau of Legislative Research. The report shall contain statistical and other data concerning the work of the Board, including research studies which it may make on parole or related functions. A copy of the report shall be published to the Board’s website.

The Board shall cooperate with, and upon request make presentations and provide various reports, to the extent the Board’s budget will allow, to the Legislature. The presentations shall consist of a review of Board policy and discretionary offender programs and services.

Presentations to the Legislative Criminal Justice Oversight Taskforce shall be made as directed by the taskforce and include performance and outcome measures related to the implementation of Act 895 of 2015 or any other topic requested by the Taskforce and within the power of the Board to provide.

**6 - ATTACHMENTS**

Attachment 1	Form 153 – Law Enforcement Response
<del>Attachment 2</del>	<del>Policies and Procedures for Executive Clemency Application by Persons Sentenced to Death</del>
Attachment 3	Conditions of Release
Attachment 4	Act 679 Conditions of Release
Attachment 5	Minimum Length of Stay at Transitional Living Facilities
Attachment 6	Discretionary Offense List
Attachment 7	Act 1029 of 2013 Mandatory Hearing List
Attachment 8	Employee Acknowledgement of Board Policy Manual

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

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

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

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

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

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

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

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

Our file(s) contain the following information:

County	Docket	Crime	Counts	Sentence Date
Total Sentence Length: _____		Minimum Release Date _____		

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

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

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

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

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

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

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

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

~~\_\_\_\_\_  
Signature on File  
Parole Board Chairperson~~

~~\_\_\_\_\_  
January 28, 2010  
Date~~

**Arkansas Parole Board  
Conditions of Release**

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



**Arkansas Parole Board  
Act 679 Conditions of Release  
(For Offenders Released under Act 679 of 2005)**

- 1. EMPLOYMENT:** You must maintain approved employment to be housed in the Transitional Living Facility. You must obtain permission from the Transitional Living Facility staff before quitting your employment. Termination from employment will result in removal from the Transitional Living Facility.
- 2. RESIDENCE:** You must be physically located at the Transitional Living Facility at all times unless you are at an approved employment site or unless approved in writing by your supervising officer.
- 3. LAWS:** You must obey all federal and state laws, local ordinances and court orders. You are required to pay all court ordered fines, fees and restitution. You must report any arrest, citation, or summons to your supervising officer within 48 hours.
- 4. WEAPONS:** You must not own, possess, use, pawn, sell, or have under your control any firearm (or imitation) or other dangerous weapon, or be in the company of any person possessing such weapons. You must not possess any ammunition.
- 5. ALCOHOL/CONTROLLED SUBSTANCES:** You will avoid the use of alcohol and all controlled substances. You must not sell, deliver, possess, or use controlled substances except as prescribed by a physician. You will submit yourself to random testing.
- 6. COOPERATION:** You must, at all times, cooperate with the Transitional Living Facility staff and staff of the Arkansas Parole Board, Arkansas Department of Community Correction, and Arkansas Department of Correction.
- 7. SEARCH AND SEIZURE.** You must submit your person, place of residence, and motor vehicles to search and seizure at any time, day or night, with or without a search warrant by any Arkansas Department of Community Correction officer. You must also submit your person, place of residence, or motor vehicle to search at any time, day or night, whenever requested by any other certified law enforcement officer.
- 8. SPECIAL CONDITIONS:** I agree to abide by the specific rules and conditions established by the Transitional Living Facility to which I am being released. A signed copy of these rules will be attached to this document.

**A Resolution of the Arkansas Parole Board  
Regarding Minimum Length of Stay at Transitional Living Facilities  
Approved and Adopted on June 26, 2014**

WHEREAS, the mission of the Arkansas Parole Board (“the Board” or “Board”) is to “promote public safety by the return of offenders into the community through supervised conditional release.”

WHEREAS, Arkansas Parole Board Manual requires among other things that the Board considers (1) “The nature of the release plan, including the type of community surroundings in the area the person plans to live and work. (2) The results of a validated risk/needs assessment. (3) The offender’s susceptibility to drugs or alcohol and (4) The offender’s basic good physical and mental health.”

WHEREAS, the Board allows offenders to parole out to a licensed Transitional Living Facility.

WHEREAS, Transitional Living Facilities generally provide treatment programs and support services to their residents.

WHEREAS, the Board realizes the value of these treatment programs and support services in the reintegration of offenders in to the community.

WHEREAS, a period of 60 days has been determined, through communication with parole supervision staff and management of Transitional Living Facilities, to be an adequate time period to deliver these treatment programs and support services.

WHEREAS, Arkansas Law establishes that every offender, while under parole supervision, shall be subject to the orders of the Board.

NOW THEREFORE BE IT RESOLVED, that the Arkansas Parole Board during its June 26, 2014 Board meeting passed this Resolution in establishment of a mandatory standard requiring offenders to remain at the Transitional Living Facility they are initially released to for a period of no less than 60 days. This requirement shall remain in effect until a written waiver has been received from the Board. This requirement shall not apply to offenders released under the provisions of Act 679 of 2005. They shall adhere to the Act 679 Program Rules.

<b>Signature on File</b> John Felts Chairman	<b>Signature on File</b> Richard Brown, Jr. Vice-Chairman	<b>Signature on File</b> Dawne B. Vandiver Secretary
<b>Signature on File</b> Abraham Carpenter, Jr. Commissioner	<b>Signature on File</b> Richard Mays, Jr. Commissioner	<b>Signature on File</b> James Wallace Commissioner
<b>Signature on File</b> Dennis Young Commissioner		



**Discretionary Offenses (Offenses for which the Parole Board CAN DENY Parole)**

**Offenses COMMITTED on or after 1/1/1994**

- ❖ Murder in the 1<sup>st</sup> degree
- ❖ Kidnapping
- ❖ Rape
- ❖ Aggravated Robbery
- ❖ Causing a Catastrophe
- ❖ Engaging in a continuing Criminal Enterprise

**Offenses COMMITTED on or after 7/30/1999**

- ❖ Capital Murder
- ❖ Murder in the 2<sup>nd</sup> degree
- ❖ Manslaughter
- ❖ Negligent Homicide
- ❖ Simultaneous Possession of Drugs and Firearms
- ❖ Battery in the 1<sup>st</sup> degree
- ❖ Domestic Battering in the 1<sup>st</sup> Degree
- ❖ Sexual Assault in the 1<sup>st</sup> degree
- ❖ Sexual Assault in the 2<sup>nd</sup> degree

**Offenses COMMITTED on or after 2/20/2013**

Any offense for which an inmate is required, upon release, to register as a sex offender under the Sex Offender Registration Act of 1997 other than Rape, Sexual Assault in the 1st degree, and Sexual Assault in the 2nd degree (see previous sections).

**Offenses COMMITTED on or after 08/16/2013**

- ❖ Attempted Capital Murder
- ❖ Attempted Murder in the 1<sup>st</sup> Degree
- ❖ Attempted Aggravated Robbery
- ❖ Terroristic Act
- ❖ Arson
- ❖ Aggravated residential burglary
- ❖ Unlawful discharge of a firearm from a vehicle
- ❖ Offenses related to acts of terrorism
  - Soliciting Material Support for Terrorism
  - Providing Material Support for a Terrorist Act
  - Making a Terrorist Threat
  - Falsely Communicating a Terrorist Threat
  - Terrorism
  - Hindering Prosecution of Terrorism
  - Exposing the Public to Toxic, Biological, or Radioactive
  - Use of a Hoax Substance

**Offenses COMMITTED on or after 04/02/2015**

- ❖ Battery in the 2<sup>nd</sup> Degree
- ❖ Aggravated Assault
- ❖ Terroristic Threatening
- ❖ Domestic Battering in the 2<sup>nd</sup> degree
- ❖ Residential Burglary

**Offenses Requiring a Mandatory Parole Revocation Hearing under Act 1029 of 2013**

1. Violent felonies referenced in A.C.A § 5-4-501(d)(2):
  - Murder in the first degree, § 5-10-102
  - Murder in the second degree, § 5-10-103
  - Kidnapping, § 5-11-102
  - Aggravated robbery, § 5-12-103
  - Rape, § 5-14-103
  - Battery in the first degree, § 5-13-201
  - Terroristic act, § 5-13-310
  - Sexual assault in the first degree, § 5-14-124
  - Sexual assault in the second degree, § 5-14-125
  - Domestic battering in the first degree, § 5-26-303
  - Residential Burglary, § 5-39-201(a)
  - Aggravated residential burglary, § 5-39-204
  - Unlawful discharge of a firearm from a vehicle, § 5-74-107
  - Criminal use of prohibited weapons, § 5-73-104, involving an activity making it a Class B felony
  - A felony attempt, solicitation, or conspiracy to commit:
    - (a) Capital murder, § 5-10-101
    - (b) Murder in the first degree, § 5-10-102
    - (c) Murder in the second degree, § 5-10-103
    - (d) Kidnapping, § 5-11-102
    - (e) Aggravated robbery, § 5-12-103
    - (f) Rape, § 5-14-103
    - (g) Battery in the first degree, § 5-13-201
    - (h) Domestic battering in the first degree, § 5-26-303
    - (i) Residential Burglary, § 5-39-201(a)
    - (j) Aggravated residential burglary, § 5-39-204
2. A conviction of a comparable felony involving violence from another jurisdiction.
3. A felony requiring registration under the Sex Offender Registration Act of 1997

**Employee Acknowledgement of Parole Board Policy Manual**

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

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

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

**Employee Acknowledgement:**

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

**Supervisor's Confirmation:**

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