

## **Information for Victims**

### **Introduction**

As a victim of crime, you may have an interest in understanding the parole process. This handbook is to help victims understand when and how an offender may be released from prison. Many of the rules and practices of the Board of Pardons and Parole are explained in this pamphlet. These rules may be modified in the future. Information on any of the Board's rules or policies can be obtained by contacting the Board office at (801)261-6464 or by writing to the Board at 448 East 6400 South, Suite 300, Murray, Utah, 84107. The Board also maintains rules which are printed in the Utah Administrative Code.

### **The Board of Pardons and Parole**

The Board of Pardons and Parole is created by the Utah Constitution and laws enacted by the Legislature. The purpose of the Board is to determine when and under what conditions persons convicted and serving prison sentences should be released. The Board may also pardon, terminate, or commute offender sentences. The Board has statutory authority to impose restitution of modify or forgive court-ordered restitution, fines, or forfeitures.

The mission of the Board is to render just decisions regarding parole and supervision of offenders. Decisions must be consistent with federal and state constitutions and state statutes. The primary objective of the Board is protection of the public. The Board also has the duty to safeguard the rights of victims and offenders.

The Board has five full-time and five Pro Tempore members appointed by the Governor with the advice and consent of the Senate. One full-time member acts as the chair. The Pro Tempore members sit at hearings when the full-time members or hearing officers are not available.

The Victim Coordinator is the contact person between victims and Board Members. The Coordinator can help victims in preparing letters or statements for the Board. Personal interviews, to discuss specific victim concerns, can be scheduled with the Victim Coordinator upon request. Upon request and availability, the Victim Coordinator may attend the hearing with the victim to give support.

### **How Original Hearing Dates Are Set**

Eligibility for an original parole grant hearing is determined by the sentence given by the court (UCA R671-201). Original parole grant hearings, on cases where a life has been taken, are determined by the Board on a case-by-case basis.

An offender who has more than one offense will be scheduled according to the most severe offense. Even though an offender has a parole grant hearing scheduled, it does not guarantee that a parole date will be given. Hearings are scheduled by crime after the following period of incarceration:

<b>Sex Offenses</b>	<b>Other Offenses</b>
1st degree Felonies - 3 years	1st degree Felonies - 3 years
2nd degree Felonies - 18 months	2nd degree Felonies - 6 months
3rd degree Felonies - 12 months	3rd degree Felonies - 3 months

### **Use of Guidelines**

Sentence and release guidelines specify the amount of time that is recommended for an offender to spend in prison. These guidelines were developed by the Commission on Criminal and Juvenile Justice. They are reviewed at the time of sentencing by judges and calculated and reviewed by the Board in preparation for a parole hearing. Guidelines are based on the type of offense and offender's criminal history and are advisory only, not statutorily mandated. Sentence and release guidelines are used by the Board to help make more consistent and uniform decisions. The Board has the discretion to deviate from the guidelines, and will do so based on aggravating or mitigating circumstances. The Board makes its decisions on the individual merits of each case.

### **Victim Notification and Involvement in Hearings**

Utah laws require that victims be notified of original parole grant hearings and rehearings (UCA 77-27-5(2)(a) and 77-27-9.5). Prior to April 29, 1996, a victim was defined as an individual against whom the offender committed a felony or class A misdemeanor offense for which the hearing is being held, or a victim of record. After April 29, 1996, for the purpose of the right to be present and heard at a public hearing as provided by 77-38-2(5)(g) and 77-38-3(7)(a), a victim of crime also includes any victim originally named in the allegation of criminal conduct who is not a victim of the offense to which the offender entered a negotiated plea of guilty. A business may qualify as a victim for purposes of testifying.

Approximately three to four weeks before a hearing, the Victim Coordinator will notify the victims, in writing, of the scheduled hearing date. Often the only available information about the victim was obtained at the time of the crime or at the sentencing date. If victims have a change of address or phone number they are requested to inform the Board. The new address or telephone number will be kept on file so that the victim can be assured of timely notification. This information is not released to the offender.

In cases where restitution is owing and the amount of restitution is unclear, victims may be notified and asked to testify at a restitution hearing. Victims have the right to be contacted regarding release dates. In order to receive notification, a victim must, in writing, request notification from the Department of Corrections (see Notification of Other Releases).

### **Victim Input and Disclosure to Offender**

Whether a victim gives testimony at a hearing or not, the Board of Pardons and Parole encourages victims to write a letter advising the Board as to the impact the crime has had on them emotionally, physically, and financially.

Victims should be aware that Utah Supreme Court decisions require the Board to provide the offender with copies of all documents reviewed by the Board when considering a parole except where confidentiality is "absolutely required." The Board will give a copy of victim letters (with phone numbers and addresses blackened out) to the offender unless the victim provides, in writing, reasons why confidentiality is "absolutely required." If the Board determines confidentiality is required, it will summarize the original document for the offender. When information is summarized the identity of the author will remain confidential.

The Board may determine that confidentiality is not required. Therefore, all victim requests for confidentiality should indicate whether the information may be disclosed if it cannot be kept confidential. If the victim does not want the information disclosed, the information will be returned and not considered by the Board.

Board of Pardons hearings are open public meetings and anyone may attend. Victims should be aware that offenders' family members and friends, and representatives from the media, are often at the hearings. A victim attending a hearing where the media is present will not be photographed without approval of the victim and the presiding individual.

### **Employer Intercession Services**

If a victim has difficulty in obtaining time off from work to attend a parole hearing, the victim may request the Victim Coordinator to contact an employer and make a request on their behalf.

### **Separate Waiting Room**

A waiting room that is separate from the offender's family and friends is available for the victims. Victims should identify themselves at the time of entry into the prison and request to be placed in the separate waiting room.

## **Oral Testimony**

Victims who wish to attend a hearing and give testimony are requested to follow the policies as set forth in Appendix A, Policies for Oral Testimony. Hearing times are not set until about two weeks before the hearing date. Victims may call the Board to obtain information about scheduled hearing times.

## **Hearing Proceedings**

Typically a hearing is conducted by one Board Member or a hearing officer. The person conducting the hearing will state the nature of the hearing and review the conviction and sentence. Testifying victims will be asked to come forward at a specific time during the proceedings. Testimony may be given when the offender is present or, if the victim requests, the offender will be removed from the room. If the offender is asked to leave the hearing room while the victim is giving testimony, the testimony will be recorded and the offender will be returned to the room after the testimony and allowed to listen to a tape recording of the victim's testimony. This is required to allow the offender an opportunity to respond to the testimony provided by the victim.

## **Hearing Results**

At the conclusion of the hearing, the person conducting the hearing will take the matter under advisement. Under Utah law all decisions must be made by a majority vote of the Board and are not final until issued in writing. Decisions are based on a careful review of material in the offender's file, including, but not limited to, information from the sentencing judge, the Department of Corrections, pre- and post- sentence and institutional reports, victim input, recommendations from the prosecuting and defense attorneys, and recommendations from law enforcement agencies. Information may also be received from the offender, the offender's family and personal acquaintances, and any other individual, agency or entity which provides relevant information. The results of hearings are public information and most are available within 28 days after the hearing. Any victim or other interested persons may telephone the Board office to learn of the final decision.

## **Requests for Hearing Tapes/Transcripts**

All board hearings are recorded. A tape of the hearing may be obtained by sending a written request that clearly identifies the hearing date and offender's name. There is a \$10.00 fee charged for duplicating and processing. A request must be accompanied by an advance payment for the tape.

## **Notification of Other Releases**

By Utah law, a victim may be notified of "other" releases of the offender (UCA 64-13-14-.7). "Other" releases are defined as releases other than those granted by the Board at the time of the hearing. These releases include:

- releases to, or from, a community correctional center;
- release to a program outside of the prison such as rehabilitation programs, state hospital, work release, or residential center; and
- escape.

A victim must submit a written request to be notified of release. The request should be sent to the Department of Corrections, Institutional Records Unit Supervisor, P.O. Box 250, Draper, Utah 84020. This request must include the offender's name, victim's current mailing address, and the telephone number of a person who can be reached, in case of an emergency. Address changes and contact information must be provided to the Department of Corrections.

## **Parole, Special Conditions and Victim Protection**

Parole is a release from prison to supervision in the community before final expiration of sentence. A parole agent is assigned to the offender by the Department of Corrections. The offender must follow the conditions of parole to remain in the community. The Board will set conditions designed to help the offender in overcoming factors contributing to their criminal behavior and to provide protection to the victim and society. These factors may include inpatient drug and alcohol therapy, sex offender or mental health therapy, completion of a halfway house program, a "no alcohol" condition, intensive supervision Parole (ISP), electronic monitoring (EM), restitution, or any other conditions the Board deems appropriate (See Appendix B). Also, the Utah Department of Corrections maintains a Sex Offender Registry for parolees convicted of a sex offense.

If the victim has particular safety concerns, the Board may order a "no contact" clause to be made part of an offender's special conditions of parole. A written request from the victim outlining specific fears and concerns and the need for a "no contact" clause should be submitted to the Board in writing. This request can be made any time before the parole hearing or during the offender's parole.

If the victim has received any threats from the offender or feels that harassment is occurring, the victim should contact the appropriate person as follows: If the offender is incarcerated, the victim may file a complaint with the offender's prison caseworker; if the offender is on parole, the victim may file a complaint with the parole agent or the Board of Pardons and Parole. The Board is concerned about such behavior. Harassment or threatening behavior by an offender may result in a longer period of incarceration or a violation of parole.

## **Restitution**

By law the Board may also impose restitution as a condition of parole. The Board may order the offender to make restitution in an amount not to exceed the actual damages to the victim(s). A restitution order may also address other criminal conduct admitted by the offender or as outlined in a plea agreement.

Restitution will be considered on a "case-by-case" basis. The Board will order compensation to be made unless extraordinary circumstances exist that justify the setting aside of restitution. Once restitution is ordered by the Board, it becomes a special condition for the parole release agreement. Collection usually begins at the time the offender is placed on parole. The Parole Agent works with the offender in setting up a payment schedule according to the offender's ability to pay. Payments are collected and disbursed by the Department of Corrections. It is important for the victim to keep the Department of Corrections informed about their current address and telephone number. This information should be provided to the supervising parole agent. Consult the phone directory for the address of the parole office. If assistance is needed to determine the correct parole office, contact the Department of Corrections.

## **Utah State Office of Crime Victims Reparations**

Victims of certain crimes may be eligible for compensation:

1. The victim must have suffered physical or psychological injury or be the dependent of a deceased victim.
2. A police report must be filed within one year after the occurrence of the crime.
3. Claims must be filed within seven days after the occurrence of the crime.

Awards are made up to \$25,000 for medical care, mental health counseling, loss of earnings, burial expenses, dental care, loss of support to dependents and some essential personal property items for the health and safety of the individual. No awards are made for property losses. The amount of the award is based on collateral sources available to the victim such as a Medicare, Medicaid insurance or worker's compensation. Funding of the program comes from surcharges and criminal fines.

For further information or questions about qualification, awards or extenuating circumstances contact:

**State of Utah  
Office of Crime Victim Reparations  
350 East 500 South, Suite 200  
Salt Lake City, Utah 84111  
(801)238-2360 in Salt Lake County  
Toll free 1-800-621-7444 for all other areas in Utah**

## **Appendix A - Policies**

### **Entry Into The Prison and Oral Testimony at Hearings**

All visitors need to be modestly dressed in order to be permitted entry into the prison. Bare midriffs, see-through blouses or shirts, shorts, tube tops, halters, extremely tight or revealing clothing (including dresses and skirts more than three inches above the knee), or sexually revealing attire shall not be permitted. Children under the age of twelve may wear shorts and sleeveless shirts.

1. By statute a victim is known as an individual against whom an offender committed a felony or class A misdemeanor offense for which the hearing is being held or a victim or record. For those cases where the offender has been convicted after April 29, 1996, the definition has been expanded to include any victim originally named in the allegation of criminal conduct, but who is not a victim of the offense for which the defendant entered a negotiated plea of guilty.
2. Family may testify if the victim is deceased, incapacitated or otherwise not available because of the offense. The Board requests that testimony be limited to no more than two victim representatives. Under exceptional or extraordinary circumstances a victim may petition the Board to request additional victim representation and testimony.
3. If a victim does not wish to give testimony, a designee may be appointed to speak on their behalf.
4. Oral testimony at hearings shall be limited to five minutes in length per victim or designee. It is requested that the remarks be written and brought to the hearing and left for the Board file.
5. Testimony may be given when the offender is not present. If requested by the victim, the offender will be asked to leave the hearing room while the victim is giving testimony. After the testimony, the offender will be brought back into the room and be allowed to listen to a tape recording of the victim's testimony. The offender will be given an opportunity to respond to the testimony.
6. Victims who want to testify are asked to provide courtesy notification to the Board in advance of the hearing so that appropriate arrangements can be made and time allocated for presentations. Victims should call the Victim Coordinator prior to the hearing to verify the location and time of the hearing and to advise if they are going to testify.
7. If more than four victims are granted permission to testify at the same hearing, the hearing may be rescheduled to provide adequate time to hear testimony.

8. Victims will be subject to all Department of Corrections security procedures and dress code standards. Prison admittance regulations require members of the public to bring one form of photo identification. Please leave other belongings such as purses at home or in a locked car.

9. A victim at a hearing where the media are present will not be photographed without approval of the victim and the presiding individual.

10. Upon advance request, an interpreter can be provided for the victim.

11. Please arrive at least twenty (20) minutes prior to the hearing.

### **Appendix B - Parole Agreement**

I agree to be directed and supervised by agents of the Utah State Department of Corrections and will abide by the following conditions of my parole:

1. Release: On the day of my release from the institution or confinement, I will report to my assigned Parole Agent, unless otherwise approved in writing from the parole office.
2. Absconding: I will not abscond from parole supervision:
  - a. Reporting: I will report as directed by the Department of Corrections.
  - b. Residence: I will establish and reside at a residence of record and will not change my residence without first obtaining permission from my parole agent.
  - c. Leaving the State: I will not leave my state of residence, even briefly, or any other state to which I am released or transferred without prior written permission from my parole agent.
3. Conduct: I will obey all State, Federal and municipal laws. If arrested, cited or questioned by a peace officer, I will notify my parole agent within 48 hours of the incident.
4. Home Visits: I will permit visits to my place of residence by agents of Adult Probation and Parole for the purpose of ensuring compliance with the conditions of my parole. I will not interfere with requirement; I.e. Having vicious dogs, perimeter security doors, refusing to open the door, etc.
5. Searches: I will permit agents of Adult Probation and Parole to search my person, residence, vehicle or any other property under my control, without a warrant, at any time, day or night, upon reasonable suspicion to ensure compliance with the conditions of my parole.

6. Weapons: I will not own, possess, have under my control or in my custody any explosive, firearms, or dangerous weapons as defined in Utah Code Annotated, Section 76-10-501, as amended.

7. Employment: Unless otherwise authorized by my parole agent, I will seek, obtain, and maintain verifiable, lawful full-time employment (32 hours per week minimum) as approved by my parole agent. I will notify my parole agent of any change in employment within 48 hours.

8. Association: I will not knowingly associate with any person who is involved in criminal activity or who has been convicted of a felony, without approval from my parole agent.

9. Chemical Analysis: I will submit to testing of my breath, body fluids or hair to ensure compliance with my parole agreement.

10. Truthfulness: I will be cooperative, compliant and truthful in all my dealings with Adult Probation and Parole.

11. Fees: I will pay supervision fees as determined by the Department of Corrections.

12. Special Conditions: I will 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_

I have read, understand, and agree to be bound by this agreement. If I violate any of these conditions of this agreement, the Board of pardons and Parole may revoke my parole or the Department of Corrections may take other appropriate action against me.

Date \_\_\_\_\_ Signed \_\_\_\_\_ USP NO. \_\_\_\_\_ Date \_\_\_\_\_

Witnessed by \_\_\_\_\_

Authorized By \_\_\_\_\_ Board of Pardons

### **Appendix C - Sex Offender Conditions**

#### **Group A - Offenses Against Children Not Related to the Offender**

I shall:

1. Enter into, participate, and successfully complete sex offender therapy as determined by the treating facility and therapists and as determined by UDC.

2. Enter into and successfully complete established progressive curfews, or electronic monitoring where available, when required by parole officer.

3. Have no direct or indirect contact with victim(s) or victim's family without prior written approval of the board of pardons and parole.
4. Have not contact or association with children under age 18 years, residing at home, without prior written approval of Adult Probation and Parole.
5. Not date persons with children under the age of 18 years without prior written approval of parole officer.
6. Not enter places or events where children congregate, including but not limited to: schools, playgrounds, parks, arcades, parties, family functions, holiday festivities, or any other place or function where children are present or reasonably expected to be present without the prior written approval of parole officer or the supervision of a responsible adult previously approved in writing by parole officer.
7. Not have in my possession or under my control any material that acts as a sexual stimulus or particular deviancy(s), including but not limiting to; computer programs, computer links, photographs, drawings, video tapes, audio tapes, magazines, books, literature, writings, etc., without prior written approval of parole officer.
8. Not have in possession or under control any material that describes or depicts human nudity, the exploitation of children, consensual sex acts, non-consensual sex acts involving force or violence, including but not limited to: computer programs, computer links, photographs, drawings, video tapes, audio tapes, magazines, books, literature, writings, etc., without prior written approval of parole officer.
9. Not have in my possession or under my control any items or materials either designed or used to entertain, lure or attract the attention of children under the age of 18 without prior written approval of my parole officer.
10. Submit to random polygraph examinations.
11. Employment must be approved by my parole officer.
12. Residence and residence changes must be approved by my parole officer.
13. Execute and adhere to the terms of the Parolee Interstate Compact Waiver and Agreement, if parole is served outside of State of Utah.
14. Comply with requirements of sex offender registration and DNA blood draws.

## **Group B - Offenses Against Adults**

I shall:

1. Enter into, participate and successfully complete sex offender therapy as determined by the treating facility and therapists and as determined by UDC.
2. Enter into and successfully complete established progressive curfews, or electronic monitoring where available, when required by parole officer.
3. Have no direct or indirect contact with victim(s) or victim's family without prior written approval of the Board of Pardons and Parole.
4. Not have in my possession or under my control any material that acts as a sexual stimulus for particular deviancy(s), including but not limiting to: computer programs, computer links, photographs, drawings, video tapes, audio tapes, magazines, books, literature, writings, etc., without prior written approval of parole officer.
5. Not have in possession or under control any material that describes or depicts human nudity, the exploitation of children, consensual sex acts, limited to: computer programs, computer links, photographs, drawings, video tapes, audio tapes, magazines, books, literature, writings, etc., without prior written approval of parole officer.
6. Submit to random polygraph examinations.
7. Employment must be approved by my parole officer.
8. Residence and residence changes must be approved by my parole officer.
9. Execute and adhere to the terms of the Parolee Interstate Compact Waiver and Agreement, if parole is served outside of State of Utah.
10. Comply with requirements of sex offender and DNA blood draws.