

FINAL RULES PROPOSED in our
Petition for Parole Rule changes using Statute 227
Sent to DOC secretary, parole Chairman and Director of DOC Health Services April 2015

Here are the broad outlines of what we would like to achieve for
WISCONSIN'S OLD LAW INMATES

- 1) For inmates sentenced for crimes committed prior to December 3^{1st} 1999, the mandated 25% of their sentence shall be considered sufficient time for punishment. Afterwards, release on parole shall be granted, absent substantive extenuating circumstances, based on conduct and accomplishments while incarcerated.
- 2) If parole is not granted, the Parole Board must state in written detail the specific requirements an eligible inmate must meet to be granted parole. This cannot contain a catch-all provision that might allow the decision-maker to base his or her decision on a factor of which the inmate has no control such as "insufficient time for punishment" or "seriousness of the crime". Also, There is no statutory requirement that a prisoner be transitioned to a minimum security prison before release. Yet unwritten rules today usually require it and overcrowded conditions leave many parole -ready inmates waiting years for the next transition. If timely transition to a lower level security prison is not possible, a prisoner who can otherwise show himself ready for release shall be paroled without regard to the security level of the prison in which he resides. Likewise, working outside the prison before release, although laudable, is not a prerequisite for release as there are many times the applicants for these jobs than there are openings.
- 3) Also, availability of programs and prison overcrowding cannot be a factor in determining release eligibility. The Department of Corrections and Community Supervision shall provide parole eligible inmates access to the programs/facilities necessary to complete the requirements for their parole release within 90 days of denial of parole for reasons of programming. If this is not possible, the prisoner will be allowed to complete the program in the community or it will be waived.
- 4) The Parole Board shall have the widest possible view of the prisoner. In addition to allowing victims and victim advocates to testify at the hearing, prisoners shall be able to invite family members and advocates. Also, the prisoners shall be allowed to submit letters of recommendation by WIDOC staff and WTDOC volunteers who have worked with him/her. Staff and community members who are against the release shall be allowed to speak.
- 5) The decision whether to release an inmate shall be made based on testimony at the hearing and documents in the prisoner's file only and the prisoner shall be able to view and contest contents of his/her file beforehand.

THE PROPOSED RULES

Below is a Rewriting of PAC 106 (16) through (20) with proposed changes inserted

Here we have expanded and added details in order to fold the new rule proposals into the existing PAC rules
PAC 1.06(16) thru (20) A RECOMMENDATION FOR A PAROLE GRANT OR RELEASE TO
EXTENDED SUPERVISION ORDER MAY BE MADE AFTER CONSIDERATION OF ALL THE
FOLLOWING CRITERIA:

(NEW RULES IN BOLD PRINT)

PAC 1.06(16)(a) The inmate has become parole or release to extended supervision eligible under s. 304.06, Stats., and s. PAC 1.05.

PAC 1.06(16)(b) Once a prisoner has served the statutorily imposed minimum amount of time necessary to become parole-eligible, the Parole Commission shall recognize that the prisoner has served the "sufficient time for punishment" - portion of his/her sentence.) For inmates sentenced for crimes committed prior to December 3^{1st} 1999, the mandated 25% of their sentence shall be considered sufficient time for punishment, for those with life sentences, it is 13 1/2 years. For Prisoners sentenced pre-1981, parole eligibility for those serving life sentences started at 11 yrs,3 months.

PAC 1.06(16) (c) The inmate has demonstrated satisfactory adjustment to the institution.

PAC 1.06(16) (d) The inmate has not refused or neglected to perform required or assigned duties.

PAC 1.06(16)(e) The inmate has participated in and has demonstrated sufficient efforts in required or recommended programs which have been made available by demonstrating one of the following

PAC 1.06(16)(e)(1) P.A.C.1.06 (16)(e) 1.1 Inmate has participated in the community OR

PAC 1.06(16)(e)(2.) The inmate can complete programming in the community OR

PAC 1.06(16)(e)(3) The inmate has not been able to gain entry into programming because the program was not available at his institution. In cases where the inmate is in administrative confinement, a non punitive status, all efforts shall be made to see that programming required for release is successfully taken. If the inmate requests such programming and a good faith attempt to supply it is not made, this lack of programming shall not be used against the inmate when deciding readiness for release.

PAC 1.06(16)(e)(4) Where such inmate chances to obtain favorable parole is contingent upon his completion or participation in such program or treatment, the Parole Commission and Program Review Committee, shall work together in securing an inmate a space in required programs and treatment, as required by DOC 302.15 (4)(9) WI Adm. Code.

PAC 1.06(16)(f) The inmate has developed an adequate release plan.

PAC 1.06(16)(g) The inmate is subject to a sentence of confinement in another state or is in the United States illegally and may be deported.

PAC 1.06 (16)(h) Inmates who committed their crimes before 1999 who were ordered by the judge to be deported upon release, shall , if permission is given by the host country and the inmate, be deported to his or her country of origin.

PAC 1.06(16)(i) In order to assess whether or not release would pose an unreasonable risk to the public and would be in the interest of justice, the Parole Commission shall be afforded the widest possible view of the prisoner. Therefore:

PAC 106(16)(i)(1) In addition to permitting victims and victim advocates the opportunity to be heard at each hearing, the Parole Commission shall permit interested parties to speak at parole hearings on behalf of the prisoner. These interested parties may consist of family, friends, members of the prisoner's support group, clergy, employers or other advocates as well as prison staff who support release.

PAC 106(16)(i)(2) The Parole Commission shall also permit two institutional staff and/or community members who voice opposition to release to speak at the hearing. In addition, Correctional staff or any person in the community will be allowed to submit written testimony in opposition to the parole.

PAC 106 (16)(i)(3) The commission may use the independently scored findings of evidence-based-practice evaluations used initially to identify essential program needs during the Assessment & Evaluation process and subsequently used to evaluate current dangerousness to the community in preparation for release. IF these test scores are used in the assessment, copies of the questions and answers and test results shall be made available to the prisoners before the parole hearing. He/she shall be able to comment on test process and fairness.

PAC 106(16)(0) All documents used in accessing whether to release an inmate shall be made available to the prisoner.

PAC 1.06 (19) If parole is not granted, the Parole Commissioner must detail in writing, exactly what specific, achievable requirements the prisoner needs to satisfy to become suitable for release. These requirements cannot contain any highly subjective, catch-all provisions that might allow a decision-maker to base his or her decision on immutable factors over which neither the prisoner nor the Parole Commission has any control such as "seriousness of the offense" or "unreasonable risk to the community" without detailing exactly what achievable requirements the prisoner needs to satisfy to become suitable for release. Any such requirements shall then be endorsed for prompt implementation/action in the written decision of the hearing in which they were made.

PAC 1.06 (20) Once the prisoner has been issued a deferment, the Parole Commission shall not increase or repeat that deferment for any reason other than the following:

The prisoner's negative institution conduct based upon a lawful finding of guilt made by Department of Corrections personnel authorized by rule to make such findings;

The prisoner's refusal to participate in essential programming mandated by the court or • The negative removal of the prisoner from such essential programming during the current deferment period for a well documented cause.

PAC 1.06 (21) In every case, each Parole Commissioner shall be required to maintain continuity in the decision making process by continuing with the case plan set forth in any written decision which was made subsequent to the implementation of these proposed rules.

IN addition we add this rule which honors the education effort made by many old law prisoners. A *similar provision was in the 1989-90 statutes (304.06(1 r) (a) (2):*

PAC 1.06 (22) a parole eligible prisoner who came into prison without a high school diploma, GED or HSED, and has attained his HSED or GED shall be paroled unless the prisoner has received a major provable behavior conduct report within the last one year or if his current parole review that indicates his or her release would post a significant risk to the public. Also a prisoner who gained a college degree or completed a vocational course while in prison shall be paroled if there is no provable evidence within the last one year to show that his or her release would pose a significant risk to the public.