NEW YORK STATE
PAROLE HANDBOOK
QUESTIONS AND ANSWERS
CONCERNING PAROLE RELEASE AND SUPERVISION



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New York State Parole Handbook Questions and Answers Concerning Parole Release and Supervision

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INTRODUCTION

1. WHAT IS THE HISTORY OF PAROLE?

The Division of Parole was established in the Executive Department on July 1, 1930. At that time, a full-time Board of Parole comprised of three members was created and paroling functions for all the state prisons were transferred from the Department of Corrections to the Division of Parole. The training schools, correctional institutions for mentally disabled prisoners, and the women's reformatory maintained separate parole systems until 1945 when Parole was consolidated throughout the state.

In 1967, the New York State Senate and Assembly passed legislation, which established authority for the Board of Parole to grant conditional release on parole to persons under definite sentences and to persons incarcerated in local reformatories. This Legislation also provided for the transfer of duties and functions of the New York City Parole Commission to the New York State Division of Parole.

On January 1, 1971, the Division of Parole was consolidated with the Department of Corrections to form the Department of Correctional Services (DOCS). This merger was based on the premise that a coordinated effort of institutional and community supervision of convicted offenders would be more effective in combating crime. Parole remained part of DOCS until January 1, 1978, when the Division was once again placed in the Executive Department as a separate agency through the Parole Reform Act of 1977. In addition to reestablishing the Division as a separate agency, the 1977 legislation mandated the formal adoption of Parole Guidelines designed to structure the Parole Board's decisions concerning the minimum period of imprisonment and the granting or denying of parole release. In 1978, as a result of the Juvenile Offender Law, the Division of Parole also became responsible for the release decision for juveniles convicted of certain serious felonies and for their post-release community supervision.

The number of people under parole supervision in New York State has expanded tremendously over the past eighty years from about 4,000 in 1930 to 49,649 as of October 31, 2010. To oversee increasing responsibilities, the number of Parole Board members has also increased over the years. Current law provides for a Board of Parole with nineteen full-time members.

2. WHAT IS THE DIVISION OF PAROLE?

The Division is part of the State's Executive Department and is responsible for the community supervision and reintegration of offenders released from prison by action of the Parole Board, by conditional release, release to a period of post-release supervision or those sentenced directly to parole supervision. These responsibilities are carried out by field and facility Parole staff. The Chairperson of the Board of Parole is also the Chief Executive Officer of the Division.

Facility assigned parole officers are responsible for parole and post-release supervision orientation, identification of needs and targeted services, pre-release application process under the Interstate Compact, completion of the pre-Board interview, development of the supervision plan, and community preparation and case assignment. Facility parole officers

complete pre-Parole Board interviews and community preparation interviews for all inmates appearing before the Board of Parole (indeterminate sentences) and for all inmates released by operation of law (determinate sentences). Parole Officers assigned to the NYS Department of Correctional Services facilities complete a core report known as the "Inmate Status Report", in preparation for all discretionary appearances and case reviews. The Inmate Status Report is a comprehensive case management report and evaluation of case-specific data that is utilized by the Board of Parole in the discretionary release decision-making process and by Field and Re-Entry Services staff during the community preparation investigation phase.

Parole Officers are the Division's line personnel and are usually assigned to an area office or a correctional facility. Facility Parole Officers guide and direct inmates during their period of incarceration. The duties of facility Parole Officers include: (1) helping inmates develop positive attitudes and behavior; (2) motivating their participation in appropriate programs; and (3) preparing inmates for their Board interviews and eventual release to the community. Parole Officers assigned to an area field office supervise and guide parolees during the period of adjustment from incarceration to community reintegration. All Parole Officers are peace officers who are trained and certified by the Municipal Police Training Council, under the auspices of the NYS Division of Criminal Justice Services, in the use of firearms.

Parole Operations is supported by staff functions of Administrative Services, Support Operations, Policy Analysis, Information Services and the Office of Intergovernmental Relations and Public Affairs. Counsel's Office provides legal advice on Division policy and authors and interprets legislation. Administrative Law Judges administer due process hearings for alleged parole violators. The Executive Clemency Unit investigates applications for pardon and commutation of sentence. The Victim Impact Office works with the New York State Crime Victims Board, local district attorneys and crime victims to help ensure that victims are aware of their rights with regard to the parole process and are afforded an opportunity to be heard in connection with the possible release of inmates. The Division maintains contact with crime victims and, at their request, keeps them apprised of parole interview dates and decisions, and the release dates of the offenders who victimized them. The Victim Impact Office also coordinates Victim Impact statement meetings between victims and/or their survivors and the Board of Parole.

3. WHAT IS THE BOARD OF PAROLE?

The Board of Parole is an administrative body within the Division of Parole possessing the powers and duties specified in Section 259-c of the New York State Executive Law. The Board consists of up to nineteen members appointed by the Governor with the advice and consent of the Senate. The term of office for each member of the Board is normally six years. However, any member chosen to fill a vacancy other than by expiration of term is appointed for the remainder of the unexpired term of the member whom he or she is to succeed.

4. WHAT ARE THE DUTIES OF THE BOARD OF PAROLE?

The most important duties of the Board of Parole include the following: (1) determining which inmates serving indeterminate sentences of imprisonment may be released on parole, the date of release, and establishing conditions of post-release supervision; (2) mandating the conditions of release of any person who may be presumptively released or conditionally

released under an indeterminate or determinate sentence of imprisonment; (3) establishing written guidelines for use in making parole decisions; (4) revoking the parole, presumptive release, post-release supervision or conditional release of any parolee and authorizing the issuance of a warrant for the retaking of such person; (5) granting and revoking Certificates of Relief from Disabilities and Certificates of Good Conduct; and (6) reporting to the Governor, when requested, the facts, circumstances, histories, social, physical, psychiatric, and criminal records of inmates under consideration by the Governor for pardon or commutation of sentence.

5. WHAT IS THE JOB OF A FIELD PAROLE OFFICER?

Field Parole Officers have dual responsibilities. As peace officers, they protect the community; as caseworkers, they must also respond to each parolee's needs for service and assistance to increase the likelihood that the parolee will succeed in the community. Field Parole Officers work in the community and coordinate the delivery of services, help to motivate and guide parolees under supervision through accepted casework techniques, and report on parolee progress. If a parolee demonstrates behavior, which indicates an inability to remain in the community, the Parole Officer will intervene to promote parolee success and may initiate actions, which can result in a return to prison.

6. WHAT IS THE JOB OF A FACILITY PAROLE OFFICER?

Facility Parole Officers help inmates develop positive attitudes and behavior, encourage participation in programs for self-improvement, prepare inmates for appearances before the Board of Parole develop and organize the supervision plan. Facility Parole Officers also work with guidance and treatment professionals to help lay the groundwork for an inmate's eventual release to the community, prepare the inmate's parole record, and provide an analysis to the Board of Parole concerning the factors relevant to the granting or denying of parole release. Questions regarding parole eligibility, the Parole Board interview process, and parole in general should be addressed to the Parole Officer at the correctional facility.

The Facility Parole Officer has the responsibility for preparing the Inmate Status Report for an inmate's Parole Board appearance, which evaluates criminal history, as well as all accomplishments and adjustments while in prison. The other function of a Facility Parole Officer is to counsel and help the inmate prepare for successful reentry into the community.

SECTION ONE
ISSUES REGARDING THE SERVING OF YOUR SENTENCE

1. WHO IS RESPONSIBLE FOR SENTENCE TIME CALCULATIONS?

The Inmate Records Coordinator (IRC) at each state correctional facility is responsible for sentence time calculations. When you are received in state custody, the IRC at the facility will determine the amount of pre-commitment jail time credit applied to your sentence and determine your earliest possible release date, conditional release date and the maximum expiration date of your sentence.

2. IF I HAVE PROBLEMS WITH MY TIME CALCULATION, WHERE DO I GO?

If you have any problems with your time calculation, you should first check with the Inmate Records Coordinator (IRC) at the correctional facility where you are presently housed to obtain your official time calculation. This will indicate the length of your sentence and the amount of jail time with which you have been credited. If, after contacting the Inmate Records Coordinator, you believe there is still a problem with your time calculation, a letter should be sent to the Clerk of the Court where the sentence was imposed. The letter should indicate the specific problem and/or what information is being sought. You should request that certified copies of your sentencing minutes and/or sentence jail time be forwarded to the Inmate Records Coordinator to allow for recomputation of your sentence.

3. WHAT IS AN INDETERMINATE SENTENCE AND A DETERMINATE SENTENCE?

An indeterminate sentence is one in which the court has established the minimum period of imprisonment and maximum period of imprisonment. After you have completed the minimum period of incarceration, you will become eligible to appear before the Board of Parole for discretionary release consideration. If the Parole Board grants you release, you will be subject to a period of parole supervision until you complete your sentence.

A determinate sentence, or “flat” sentence, is one in which the Court is authorized only to set a fixed period of incarceration without a minimum and maximum term. Under the Sentencing Reform Act of 1998, determinate sentences also include a fixed period of post-release supervision (see Section II).

4. HOW DOES PRE-COMMITMENT JAIL TIME AFFECT MY MINIMUM?

Jail time is credited toward service of your minimum sentence established by the sentencing Court.

5. WHAT IS GOOD TIME?

Section 70.40 of the New York State Penal Law states that an inmate may earn time allowances (good time) off his or her maximum term of imprisonment for good

institutional behavior. A good time allowance is granted by DOCS under Section 803 of the Correction Law.

6. HOW CAN I GET RELEASED FROM PRISON?

Generally, there are five ways to be released:

- Parole Board Release;
- Presumptive Release;
- Conditional Release (CR);
- Release to a period of post-release supervision; or
- Completion of the sentence (reaching the maximum expiration date of the sentence).

7. WHAT IS A BOARD RELEASE?

A Board release occurs when a panel of the Board of Parole interviews an eligible inmate and grants discretionary release.

8. WHAT IS CONDITIONAL RELEASE (CR)?

All inmates, except those serving life sentences, are eligible to have their date of conditional release form State prison adjusted sentences reduced for good time served. Conditional Release (CR) must be granted when your total good behavior allowance is equal to the unserved portion of your maximum term. For indeterminate sentences, this occurs when you have not been granted release by the Board of Parole, but have served two-thirds of your maximum sentence and there has been no loss of good time. For example, if serving an indeterminate sentence of one to three years, you could be released by the Parole Board after serving the minimum of one year. If not, you are eligible for conditional release after serving two years.

For determinate sentences, created by the Sentencing Reform Act of 1995 (modified in 1998 to include post-release supervision), there is no parole eligibility, and conditional release occurs when you have served six-sevenths of your sentence and there has been no loss of good time.

Conditional release is a statutory type of release that the Board of Parole does not have discretion to grant or deny. However, no matter what kind of sentence you are serving, you must meet two conditions to be eligible for conditional release:

- You must request conditional release; and
- You must agree in writing to abide by the conditions of parole for conditional release until the expiration of your maximum term, or the expiration of your term of post-release supervision, if applicable. The conditions are essentially the same as those imposed upon other parolees.

9. WHAT DOES "MAX-OUT" MEAN?

"Max-out" means that you are released from prison after completing your entire sentence. This can occur in the following instances:

- You are not paroled and have lost all your good time allowance;
- You are returned to prison for violating the conditions of your parole or period of post-release supervision release and there is no longer an opportunity for the good time allowance; or
- You refuse conditional release.

10. CAN ANYTHING ELSE AFFECT MY MAXIMUM EXPIRATION DATE ONCE I AM RELEASED TO PAROLE SUPERVISION?

Yes. If while under parole supervision, you are declared delinquent and your release status is revoked, your sentence time stops running and the time during which you were delinquent up to the time you were returned to a state correctional facility, is added to your current maximum expiration date and results in a new maximum expiration date. If the Board of Parole cancels delinquency, your original maximum expiration date is restored. Immediately upon being apprehended and incarcerated solely on a parole violation warrant, your time resumes running and is credited to your sentence as parole jail time under section 70.40(3) of the Penal Law.

SECTION TWO
PAROLE AND PAROLE BOARD ACTIVITIES IN STATE CORRECTIONAL FACILITIES

1. WHAT DOES PAROLE AND PAROLE ELIGIBILITY MEAN?

Parole is release granted by the Board of Parole as a matter of discretion after you have served a portion of your indeterminate sentence. Parole eligibility occurs when you have served the minimum period of imprisonment, as established by statute. However, if you successfully complete a Shock Incarceration Program or are granted a Certificate of Earned Eligibility by the Department of Correctional Services (DOCS), you may become eligible for parole before you complete your minimum period of imprisonment. You may also become eligible for parole before reaching your minimum term by earning Merit Time. Eligible inmates with Final Orders of Deportation in place may be considered for release, for deportation only, prior to completion of their minimum sentences. Finally, certain terminally or chronically ill inmates may be eligible for Parole Board review before serving a minimum term.

2. DO I HAVE TO SUBMIT AN APPLICATION FOR PAROLE BOARD RELEASE CONSIDERATION?

No. Once you reach a parole eligibility date, you will be scheduled for a Pre-Board interview with a Facility Parole Officer and you will be scheduled for an interview before a panel of the Board of Parole.

3. HOW DO I BECOME "READY" FOR PAROLE?

Parole "readiness" includes several factors. It is important that you demonstrate good prison behavior throughout your period of incarceration. Becoming involved in facility programming offers you an opportunity to improve your education, participate in appropriate treatment programs and acquire skills that will assist you as your transition back to the community.

For example, there are programs provided by DOCS that offer substance abuse treatment and counseling, education vocational training and self-help. Such programs may help you learn how to cope with drug and alcohol problems upon your release. There are many opportunities in prison for you to learn more about yourself and to make important strides in self-improvement and self-development.

Facility Parole Officers can provide you with a great deal of information and assistance during the period of incarceration, and your Parole Officer will also provide guidance in preparation for your appearance before the Board of Parole and with regard to the development of the release plan.

4. WHAT IS THE PURPOSE OF THE INITIAL PAROLE BOARD APPEARANCE?

Upon serving the minimum term of an indeterminate sentence, you are automatically scheduled to make an initial Parole Board appearance. This is your first opportunity to be considered for discretionary release by the Parole Board. At this appearance, the Board examines your institutional adjustment, including your disciplinary record and earned

eligibility status. The Board also reviews your criminal history and other factors required by law to determine whether release should be granted. Shock Incarceration participants usually do not have a personal appearance before the Parole Board, but are considered for release by the Board before completing the program.

5. WHO WILL BE PRESENT AT THE PAROLE BOARD INTERVIEW?

Discretionary interviews are conducted by a panel of two or three members of the Parole Board; Facility Division staff and a hearing reporter will also be present. The hearing reporter will record what is said during the interview.

6. MAY I APPEAR BEFORE THE PAROLE BOARD FOR A RELEASE INTERVIEW WITH AN ATTORNEY?

No. Counsel may not be present during discretionary release interviews.

7. WHAT IS TEMPORARY RELEASE?
WHAT IS PAROLE'S ROLE IN TEMPORARY RELEASE?

Temporary Release is a program under the jurisdiction of the Department of Correctional Services (DOCS), which authorizes your temporary release from a correctional facility into the community for specific purposes. Every correctional facility has a Temporary Release Committee to screen and process applications from eligible inmates for program participation.

A Parole Officer will supervise you in the community if you are approved for work release and day reporting. Details about Temporary Release Program eligibility requirements and application procedures are available from DOCS staff at the facility where you are confined.

8. WHAT IS SHOCK INCARCERATION AND HOW DOES IT AFFECT PAROLE ELIGIBILITY?

Shock Incarceration is a program under the jurisdiction of the Department of Correctional Services in which selected, eligible inmates participate in a structured six-month program at a Shock Incarceration facility. Generally, participants who successfully complete the program are issued a Certificate of Earned Eligibility and are eligible for parole release consideration prior to completing their court-imposed minimum sentence.

9. WHAT IS MEDICAL PAROLE?

The purpose of Medical Parole is to reunite terminally or chronically ill inmates and those who suffer from significant debilitating illness with their families and loved ones during the final stages of illness and to allow death with dignity outside of prison. Sections 259-r and 259-s of the Executive Law permit the Board of Parole to release certain ill inmates prior to the expiration of the minimum term imposed by the sentencing court. Inmates, who are in the final stages of a terminal illness; or are severely restricted in their ability to walk and care for themselves, and have not served their minimum sentence, are eligible

to apply for Medical Parole. To apply for Medical Parole, an inmate or someone acting on his or her behalf should contact the Chief Medical Officer of the Department of Correctional Services (DOCS).

Release on Medical Parole may only be granted by the Board of Parole after a physician diagnoses an inmate as suffering from a terminal or other qualifying non-terminal medical condition and concludes that he or she is so debilitated or incapacitated as to be severely restricted in ability to self-ambulate and care for his or herself. The Commissioner of DOCS or a designee must review the physician's diagnosis and conclusions and certify that the inmate is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and forward the application to the Division of Parole. Medical Parole is granted for a period of six months and is renewable under certain conditions.

An appropriate medical discharge plan is established by DOCS and provided to the Division of Parole. The plan identifies the level of medical care the inmate will require upon release, and must include a confirmed placement in a facility that can provide the appropriate level of care. All inmates released on Medical Parole must have a special condition to remain under the care of a physician and in a medically appropriate placement, as well as other conditions of release.

10. WHAT IS CONDITIONAL PAROLE FOR DEPORTATION ONLY?

Section 259-i (2) (d) (i) of the New York State Executive Law permits "Conditional Parole for Deportation Only" (CPDO), which is a type of release decision granted by the Board of Parole to an inmate who has been issued a Final Order of Deportation by an Immigration and Customs Enforcement (ICE) Judge, and who has waived or exhausted his/her right to appeal the ICE Judge's order.

As a result of the Sentencing Reform Act of 1995, certain inmates who have been ordered deported, but have not reached their parole eligibility date, are eligible for Early Conditional Parole for Deportation Only (ECPDO) consideration in addition to those eligible for their Initial or Reappearance interview before the Board of Parole.

"ECPDO" is possible provided:

- You are not convicted of an A-1 felony (except for Penal Law Art. 220 drug felony);
- You are not convicted of a Violent Felony Offense per Penal Law 70.02;
- You have served one half of the minimum of your sentence; and
- There is a Final Order of Deportation for which you have waived or exhausted your appeal from the order.

Parole screens cases for ECPDO eligibility. However, if you have completed at least one-half of your minimum and believe you are eligible, contact facility Parole staff.

11. WHAT IS MERIT TIME?

In 1997, Section 803 of Correction Law was amended to provide for a Merit Time allowance; a Merit Time allowance is granted by DOCS. Under this provision, early release consideration may be granted to inmates meeting certain criteria. Inmates meeting these criteria for early release consideration are eligible for a Parole Board interview.

If you are serving an indeterminate sentence and meet the criteria below, you may be eligible for a Merit Time allowance equal to one-sixth of your minimum term. This allowance is then applied to your minimum term to determine when you would be eligible for early release.

For example, if you were serving an indeterminate sentence with a minimum term of six years, your Merit Time allowance would equal one year. When this allowance is applied to your minimum term, you would be eligible for early release by the Parole Board after serving five years.

To qualify for this allowance, you must be sentenced to an indeterminate term with a minimum of more than one year. You are not eligible for Merit Time if you are serving a sentence for any of the following:

- An A-1 felony offense (other than A-1 drug offense);
- A Penal Law sec. 70.02 violent felony offense;
- Manslaughter 2nd degree;
- Vehicular manslaughter 1st degree;
- Criminally negligent homicide;
- Penal Law Articles 130 and 263 offenses; or
- Incest.

If your crime of conviction does not fall within any of the above categories, to qualify for Merit Time, you must also have successfully participated in a work or treatment program assigned pursuant to Correction Law and have accomplished one of the following:

- Earned a GED;
- Acquired an ASAT Certificate;
- Earned a Vocational Trade Certificate after six months of vocational programming; or
- Performed 400 hours of community service on a work crew.

Merit Time may be withheld if, while incarcerated, you have incurred a serious disciplinary infraction, or you have initiated a frivolous lawsuit, or have had sanctions imposed against you under Rule 11 of the Federal Rules of Civil Procedure for litigation that you have commenced against the state or its employees.

In 2003, Section 803 of Correction Law was amended to extend merit time provisions to Class A-1 drug offenses. If you are serving an indeterminate sentence for an A-1 offense defined in Article 220 of the Penal Law and if in the case of multiple sentences, all other sentences are merit eligible, you may be eligible for merit consideration. Merit time allowance for A-1 drug offenses is a possible one-third reduction of the minimum term.

12. WHAT IS PRESUMPTIVE RELEASE?

In 2003, Section 806 of the Correction Law was amended to enable the Department of Correctional Services to grant Presumptive Release to an eligible inmate upon serving a prescribed term of his or her indeterminate sentence. Conditions of release for inmates granted Presumptive Release are imposed by the Board of Parole.

If you are granted Presumptive Release, you will be released from prison and supervised by a Parole Officer. You are not eligible for Presumptive Release if you are serving a sentence for or previously convicted of any of the following:

- An A-1 felony offense;
- A Penal Law Sec. 70.02 violent felony offense;
- Manslaughter 2nd degree;
- Vehicular manslaughter 1st and 2nd degree;
- Criminal negligent homicide;
- Penal Law Article 130 or 263 offenses; or
- Incest.

Presumptive Release may be withheld if, while incarcerated, you commit a serious disciplinary infraction or if you have initiated a frivolous lawsuit or have had sanctions imposed against you under Rule 11 of the Federal Rules of Civil Procedure for litigation you have commenced against the State or its employees.

If you meet the above criteria and also meet the criteria for Merit Time, you may be entitled to Presumptive Release at the expiration of five-sixths of your minimum term or aggregate minimum term. You should talk with your Correction Counselor regarding program application.

13. WHO DETERMINES PRESUMPTIVE RELEASE?

The Department of Correctional Services (DOCS), under the authority of the Commissioner, is responsible for granting approval for presumptive release. Although the Board of Parole is not the releasing authority, the Board is required to impose conditions of release. If granted presumptive release, you will be under the supervision and jurisdiction of the Division of Parole until you are discharged from your sentence.

14. WHAT IF I AM DENIED PRESUMPTIVE RELEASE?

If denied presumptive release by the Department of Correctional Services (DOCS), you will appear before the Board of Parole for discretionary release consideration on either your parole eligibility date or, if you are eligible, on your merit eligibility date. A merit certificate must be issued by DOCS before you can appear before a panel of the Board of Parole.

15. WHAT IF MY FAMILY, FRIENDS, EMPLOYERS OR OTHER INDIVIDUALS WISH TO SEND LETTERS IN SUPPORT OF MY RELEASE FOR REVIEW BY THE PAROLE BOARD?

All letters of support should be sent to the Division of Parole Office in the correctional facility in which you are confined. Additionally, any written statement you wish to make should be submitted to the Facility Parole Officer in advance of your Parole Board interview. Letters and documents received by Facility Parole staff will be placed in your folder and provided to the Parole Board at the time of your appearance.

Letters should not be sent directly to the Board of Parole. Your folder is maintained at the facility and it is important that any documents submitted on your behalf be directed to the attention of Facility Division of Parole staff. Sending materials to the Facility Parole Officer is the best way to ensure that all letters, documents, and statements will be placed in your file before you appear.

16. WHAT HAPPENS AT QUEENSBORO CORRECTIONAL FACILITY?

Queensboro is a minimum security facility that offers re-entry services for inmates who are within ninety (90) day of an approved parole or conditional release date. Inmates must meet the requirements of a minimum secure facility and they must be returning to residences in New York City, on Long Island, or to the lower Hudson Valley region. The Queensboro program location provides an excellent opportunity to finalize release plans, reunite with family, and to meet with service providers in preparation for release to parole or post-release supervision.

17. WILL I RECEIVE ASSISTANCE IN PLANNING MY RELEASE IF I HAVE SPECIAL NEEDS?

Facility Parole Officers are responsible for making case-specific program and treatment recommendations, identifying special needs, referring releasees to community-based services, and initiating the community preparation investigation process. Facility Parole Officers, Field Parole Officers, and Reentry Services staff work together to develop an appropriate supervision plan that targets special needs and confirms the availability of community-based resources. Facility Parole Officers also provide assistance and support with applications for public benefits and emergency assistance. Applications for public benefits must be supported by medical evidence and/or appropriate documentation of a disability, impairment, or qualifying condition or illness. It is important that you fully participate in the development of the release plan so that your transition from prison to the community is seamless and consistent with the requirements of release.

18. HOW CAN I PREPARE FOR A PAROLE BOARD INTERVIEW?

In order to prepare for a Parole Board interview, you should:

- Begin to collect and organize documentation and/or letters that support your release or offer reasonable assurance of employment or resources in the community;
- Know and understand the purposes and procedures of Parole Board interviews. In advance of your Parole Board appearance, you will be interviewed by a facility

Parole Officer who will prepare an inmate status report. This interview, in conjunction with pre-parole orientation or group sessions, will provide a basic understanding of Parole Board process. If you have any questions concerning information which will be presented in the status report, you should discuss this with the Parole Officer during your Pre-Board interview;

- Be prepared to discuss all aspects of your present offense and your offense history;
- Be prepared to discuss your custodial record, disciplinary history, treatment participation, program involvement and achievements, and your overall adjustment;
- Discuss your immediate plans and future goals;
- Think about what questions you may have regarding the release process;
- Consider statements you would like to make concerning any of the above issues.

19. WHAT IS CONTAINED IN THE INMATE STATUS REPORT?

The Inmate Status Report reflects the following information:

- Present offense specifics such as the conviction or adjudication, offense level, and sentence structure;
- Description of the present offense;
- Personal characteristics: identification information;
- Summary of the prior offense history (legal history);
- Inmate statement: comments and attitude regarding the offense which resulted in the conviction or adjudication, as well as statements regarding the legal history;
- Institutional adjustment information: a summary of program and treatment participation, as well as disciplinary history; and
- Release plan: place of residence, employment, educational and treatment plans upon release.

20. WHAT IS THE PURPOSE OF THE PAROLE RELEASE DECISION-MAKING GUIDELINES?

The Board of Parole has adopted a set of guidelines to assist structuring its discretion with regard to release decisions. Parole Guidelines consist of ranges of time historically served by individuals with similar conviction offenses and similar past criminal histories. The determination of an inmate's guideline range of time to be served in prison is made on the basis of an offense severity score and a prior criminal history score and is just one of the many factors that the Parole Board considers.

21. WHERE CAN I FIND A COMPLETE EXPLANATION OF THE PAROLE GUIDELINES?

If you would like more detailed information concerning the Parole Guidelines, you can contact the Facility Parole Officer. Additionally, each law library at State correctional facilities is provided with a copy of the Division of Parole's Release Decision-Making Guidelines Application Manual, which you can use as a reference. Prior to your Parole Board interview, you will be interviewed by a Facility Parole Officer. At that time, you should ask any questions you have about the Guidelines and how they are being applied in your case.

22. DO VICTIMS HAVE ANY INPUT INTO THE PAROLE BOARD'S DECISION?

Yes. It has always been the policy of the Board of Parole to consider any statement made by a victim or representative of the victim as part of the parole release decision-making process. In fact, legislation adopted in 1985 mandated that victim impact statements be considered by the Board of Parole.

Victims and/or survivors of certain violent crimes may make requests in accordance with the Board of Parole procedures for the purpose of personally submitting their victim impact statements to a member of the Parole Board. The personal meeting provides a setting that permits confidentiality in a suitable atmosphere. A transcript of this meeting is then provided to the panel making the release determination.

In lieu of meeting with a Parole Board member, victims are also allowed to submit their sentiments regarding the release of an inmate by written statement, audiotape or videotape. Any and all information submitted or provided by a victim is always afforded the utmost confidentiality.

23. WHEN AND HOW DOES THE PAROLE BOARD INFORM ME OF ITS INTERVIEW DECISION?

You will receive written notification of the release decision within several days of completion of the interview before a panel of the Board of Parole. If approved for release, the Parole Board Release Decision Notice will identify the release date and the conditions of supervision. If you are denied release, this form will detail the reasons for the denial and the form will also note the date you will next be eligible for discretionary release consideration.

24. IF THE BOARD OF PAROLE APPROVES MY RELEASE, WHAT HAPPENS NEXT?

If approved as a discretionary release case, the Board of Parole will establish an "open date" and your proposed residence, employment program, and any other community based programs will be subject to investigation by assigned field staff.

25. WHAT IS AN OPEN DATE?

An open date is a parole status granted by the Parole Board. To receive an open date, you must be serving an indeterminate sentence. In order to be released to supervision, the Division of Parole must verify that you have a place to live, employment or other appropriate means of support, and that you are prepared to comply with any additional requirements of the supervision plan. If an approved release plan is not returned to Parole staff at your facility within six months of the date that the Board of parole granted the open date, you will be required to reappear before a panel of the Board of Parole.

26. IF I RECEIVE AN OPEN DATE, WHEN WILL I BE RELEASED?

Your open date is the earliest possible release date. The approval occurs after the Parole Officer has completed an investigation of the release program and submitted a report to

the Senior Parole Officer and the Area Supervisor. The assigned field team must approve the release program (supervision plan) before you can be released. The Facility Parole Officer will process your release upon being notified of the approved supervision plan. The supervision plan typically consists of a residence, employment confirmation or reasonable assurance of employment, educational or vocational training program, chemical dependence treatment, or other case-specific treatment need.

27. WHAT IF I'M DENIED RELEASE?

If you are denied release at your Parole Board interview, you will receive a copy of the Parole Board Decision Notice that will contain the reasons for the denial. The Board of parole will set a date for your reappearance. The reappearance date cannot exceed twenty-four (24) months from the date of the current appearance. You may submit an administrative appeal from the Parole Board's decision. The Facility Parole Officer can assist you with information regarding the appeal process and requirements related to the submission of the appropriate documentation.

28. WHAT IS COMMUNITY PREPARATION AND WHAT IS MY ROLE IN IT?

Because where you will live, work or go to school is extremely important, it is essential that you take an active role in the development of your release plan (supervision plan). Prior to your scheduled release date, you will be asked to provide Division of Parole staff with information about where you plan to live and work in the community. This is an important matter that you should be planning for long before the anticipated release date.

The information you provide will be given to a Field Parole Officer who will investigate the proposed residence or housing program, employment, vocational or educational programs, and treatment programs. If your release plans change or require modification, you must immediately contact your Facility Parole Officer.

29. WHAT CAN I DO IF I HAVE NO HOME TO GO TO?

Your Parole Officer must approve any residence that you propose to live in and will conduct an investigation of that residence to make sure it is a suitable place, does not violate any of the conditions of your release, and will not impede your ability to successfully complete parole or the period of post-release supervision. Placement in emergency housing or a shelter is not a preferred residence program, and so, your Parole Officer will help you identify possible residences with family or friends if you have nowhere to live. You can also be referred to programs that may be able to assist you in finding housing or emergency residential services.

30. HOW CAN I LOOK FOR EMPLOYMENT WHILE I AM STILL IN THE FACILITY?

An important part of your supervision plan is employment. Independently, you should do the following:

- Contact former employers;
- Ask for help from relatives and friends;

- Contact ex-offender resource groups;
- Write letters to businesses and other organizations where you plan to live;
- Contact your correctional facility's Pre-Release Center.

31. CAN PAROLE HELP ME FIND A PROGRAM?

The Division of Parole wants you to complete your period of parole supervision or post-release supervision successfully, that is, with no new arrests, rule violations, or behavior that would compromise your safety or the safety of others. The Division expects that you will gradually become more and more self-sufficient, responsible, and independent. You may require assistance to break the cycle of addiction or to address your history of chemical dependence, control your anger, manage personal finances, pursue education, obtain employment, and pay debts such as child support, restitution and other mandated fees. You may be required to attend a treatment program or participate in other targeted services as a condition of your parole or period of post-release supervision. The Division's Reentry Services Unit provides assistance with securing such services, and your Parole Officer can also help you access these types of services in the community.

32. IF I HAVE AN OUTSTANDING WARRANT, CAN I STILL BE CONSIDERED FOR RELEASE?

Yes. If the Board believes that discretionary release is appropriate, you will receive an open date decision. The jurisdiction responsible for issuing the warrant will be notified that you are scheduled for release, and arrangements will be made so that the warrant may be enforced when you are released. If you are released from the warrant or commitment detainer prior to the maximum expiration date or post-release maximum expiration date of your New York State sentence, you will remain under the supervision of the Division of Parole and you will be expected to report to your Parole Officer. If the warrant is recalled or if the charges were to be dismissed, you would be released to the community as soon as your release program (supervision plan) is approved.

33. WHAT IS EARNED ELIGIBILITY?

The Commissioner of the Department of Correctional Services may issue a Certificate of Earned Eligibility to an inmate who has shown progress in an assigned institutional program. The Parole Board will review this as part of the institutional record. The possession of an Earned Eligibility Certificate is viewed as a positive factor in release consideration.

34. WHAT IS A RESCISSION HEARING?

Once you have been granted a release date and are in Community Preparation status (having been granted a release date but prior to actual release), the Facility Parole Officer (FPO) must review any serious violation of facility rules or change in your mental condition that would indicate that your release at the present time would not be in your best interest or that of society. The FPO must also review any new information not available to the Board at the time of the interview. After completing an investigation, the FPO may issue a temporary suspension of your release date. If a temporary suspension is issued,

the FPO forwards a report to the Board of Parole. A Board member will then review the report and decide whether or not a rescission hearing should be conducted by the Parole Board to reconsider the earlier Board decision.

If a rescission hearing is ordered, you will be provided with a written notice of the alleged violations of behavior or changes in your status in advance of the hearing. At the hearing, evidence will be presented by the Facility Parole Officer and you will have an opportunity to present witnesses and documentary evidence, and to confront and cross-examine adverse witnesses. Although there is no provision for court-appointed counsel at this time, you have a right to retain counsel to represent you at the hearing at your own cost. The burden of proof at such a hearing is upon the Division of Parole. The Board of Parole will prepare a written decision that either rescinds the release decision or restores the release date previously granted. If the release date is rescinded, the decision will indicate the evidence relied upon, the reasons for rescission and set a reappearance date.

SECTION THREE
PAROLE SUPERVISION

1. WHAT HAPPENS IF I AM PAROLED AND CANNOT FIND A PERMANENT RESIDENCE?

The Division may assist you in locating programs that may be available to provide a temporary place to live if you become homeless, reside in an unstable living situation, or need a more structured environment. Programs of this nature may also provide other services, such as substance abuse treatment, job development, and employment training.

2. AFTER I AM RELEASED, TO WHOM AND WHEN DO I REPORT?

Upon release, unless instructed otherwise, you should report in person with your Certificate of Release within twenty-four hours to the area office listed on your release papers. If time or distance makes it impossible to report within twenty-four hours, you must telephone the area office to inform them of your special circumstances. The area office will make sure that you are interviewed promptly when you report. If the Parole Officer who will supervise you is not available at this time, a Parole Officer on duty will conduct an arrival report and make arrangements with you to return to the office for an initial interview with your assigned Parole Officer. During your arrival report, the rules of Parole and your responsibilities under the parole system will be carefully explained. Special Parole conditions will also be thoroughly discussed with you. You should ask any questions you might have about these rules and conditions. It is very important that you completely understand these responsibilities. Your Parole Officer will check your release sheet, discuss your residence and programming with you, make a reporting schedule, and tell you the date and time of your next interview.

3. WHAT ARE THE RESPONSIBILITIES OF A FIELD PAROLE OFFICER?

The Field Parole Officer's job is to assist your reentry into the community and to protect public safety. When you are released from a correctional facility, you may have difficulties upon returning to the community. You may have trouble finding a job or a place to live. You may also have difficulty reestablishing relationships with family and friends, or abstaining from the use of drugs or alcohol. The Field Parole Officer's job is to counsel you, refer you to appropriate services, and to assist you in developing positive ways of solving your problems to promote the likelihood of your success. The assistance you receive will depend on your needs. Parole Officers also ensure that individuals under parole supervision are obeying the laws of society and the rules of parole. Like other peace officers, Parole Officers can make arrests, conduct investigations, search parolees, and apprehend parole violators.

4. IF I AM HAVING PERSONAL DIFFICULTIES WITH MY ASSIGNED PAROLE OFFICER, WITH WHOM SHOULD I SPEAK?

The first person with whom you should speak is your Parole Officer. If you are not talking to your Parole Officer about these problems, he or she may not be aware that there are any difficulties. If after talking with your Parole Officer you still feel that there are problems that are not being worked out, you should ask to speak with his or her Senior

Parole Officer. You may also request an opportunity to meet with the Senior Parole Officer. If you are unable to resolve your difficulties, you can request an opportunity to meet with the Area Supervisor. Whatever you do, do not attempt to deal with this problem by avoiding your normal contacts with appropriate Division of Parole staff. This is called absconding (failing to report or moving without advising your Parole Officer) and can result in your return to custody.

5. WHAT COUNTIES DO THE AREA PAROLE OFFICES SERVE?

There are local Parole offices located throughout New York State. In locating these offices, factors such as ease of access, limited travel to and from place of residence and employment, access to other community agencies, and the needs of the community are taken into consideration.

The counties and correctional facilities served by each Division office are as follows:

Metro I Region

Manhattan Area Offices
Lincoln Work Release Facility (Males)
Bayview General Confinement and Work Release Facility (Females)
Edgecombe Residential Diversion Program

Bronx Area Offices
Fulton Work Release Facility (Males)

Metro II Region

Brooklyn Area Offices

Queens Area Offices
Queensboro General Confinement Correctional Facility

Staten Island Area Office

Region III

Suffolk Area Office

Nassau Area Office

Central Long Island Area Office
Counties: Nassau, Suffolk

Peekskill Area Office
Counties: Rockland, Orange, Putnam

New Rochelle Area Office
Counties: Westchester

Region IV

Albany Area Office
Counties: Albany, Schenectady, Greene, Schoharie

Northeast New York Area Office
Counties: Columbia, Fulton, Montgomery, Rensselaer, Saratoga, Warren, Washington

Plattsburgh Sub Area Office
Counties: Clinton, Essex, Franklin, St. Lawrence

Syracuse Area Office
Counties: Cayuga, Cortland, Onondaga, Oswego, Seneca, Madison, Jefferson, Lewis)

Utica Sub Area Office
Counties: Oneida, Otsego, Herkimer, Hamilton, Chenango, Lewis

Poughkeepsie Area Office
Counties: Dutchess, Sullivan, Ulster

Region V

Elmira Area Office
Counties: Chemung, Schuyler, Steuben, Tompkins, Yates

Binghamton Sub Area Office
Counties: Broome, Delaware, Tioga

Buffalo Area Office
Counties: City of Buffalo
Buffalo Correctional Work Release Facility (Males)

Rochester Metro Office
Counties: City of Rochester
Rochester Correctional Work Release Facility (Males)

Rochester Belt Office
Counties: Wyoming, Genesee, Livingston, Ontario, Wayne, Suburban and Rural Monroe County

Niagara Frontier Office
Counties: Niagara, Orleans, Cattaraugus, Chautauqua, Allegany and Suburban Erie County

6. WHAT ARE THE GENERAL CONDITIONS OF PAROLE?

The conditions of parole are rules which you must follow while under supervision. Conditions are furnished in writing to you and are explained by a Parole Officer. You should ask your Parole Officer if you have any questions about these rules. You are required to sign the conditions to acknowledge that you have received a copy, that you understand them and are willing to comply with them. If you require translation services in order to communicate with your Parole Officer, including understanding your conditions of parole, such services will be provided to you.

The general conditions of release are:

1. *I will proceed directly to the area to which I have been released and, within twenty-four hours of my release, make my arrival report to that office of the Division of Parole unless other instructions are designated on my release agreement.*
2. *I will make office and/or written reports as directed.*
3. *I will not leave the State of New York or any other state to which I am released or transferred, or any area defined in writing by my Parole Officer without permission.*
4. *I will permit my Parole Officer to visit me at my residence and/or place of employment and I will permit the search and inspection of my person, residence, d property. I will discuss any proposed changes in my residence, employment, or program status with my Parole Officer. I understand that I have an immediate and continuing duty to notify my Parole Officer of any changes in my residence, employment, or program status when circumstances beyond my control make prior discussion impossible.*
5. *I will reply promptly, fully, and truthfully to any inquiry of, or communication by,my Parole Officer or other representative of the Division of Parole.*
6. *I will notify my Parole Officer immediately any time I am in contact with, or arrested by, any law enforcement agency. I understand that I have a continuing duty to notify my Parole Officer of such contact or arrest.*
7. *I will not be in the company of, or fraternize with any person I know to have a criminal record or whom I know to have been adjudicated a Youthful Offender, except for accidental encounters in public places, work, school, or in any other instance with the permission of my Parole Officer.*
8. *I will not behave in such manner as to violate the provisions of any law to which I am subject, which provides for a penalty of imprisonment, nor will my behavior threaten the safety or well-being of myself or others.*
9. *I will not own, possess, or purchase any shotgun, rifle, or firearm of any type without the written permission of my Parole Officer. I will not own, possess, or purchase any deadly weapon as defined in the Penal Law or any dangerous knife, dirk, razor, stiletto, or imitation pistol. In addition, I will not own, possess or purchase any instrument readily capable of causing physical injury without a satisfactory explanation for ownership, possession or purchase.*
10. *In the event that I leave the jurisdiction of the State of New York, I hereby waive my right to resist extradition to the State of New York from any state in the Union and from any territory or country outside the United States. This waiver shall be in full force and effect until I am discharged from Parole or Conditional Release. I fully understand that I have the right under the Constitution of the United States and under law to contest any effort to extradite me from another state and return me to New York, and*

I freely and knowingly waive this right as a condition of my Parole or Conditional Release.

11. *I will not use or possess any drug paraphernalia or use or possess any controlled substance without proper medical authorization*.
12. *Special Conditions: (as specified by the Board of Parole, Parole Officer or other authorized representative)*.
13. *I will fully comply with the instructions of my Parole Officer and obey such special additional written conditions as he/she, a member of the Board of Parole, or an authorized representative of the Division of Parole, may impose.*

7. WHAT ARE SPECIAL CONDITIONS OF SUPERVISION?

Although the general conditions of parole apply to all those under supervision, the Board of Parole, a Facility Parole Officer or your Field Parole Officer can add additional conditions that apply specifically to you and to your situation. This might be a curfew, a prohibition against drinking or associating with specific individuals, or a prohibition against being in a specific area. If the Board of Parole imposes a special condition, only the Board can remove it. If your Parole Officer imposes a special condition, then he or she can remove it. Special conditions, whether imposed by the Board of Parole or a Parole Officer, must be obeyed in the same way as the general conditions of parole.

8. WHAT DOES PAROLE DO ABOUT DOMESTIC VIOLENCE?

If you are under parole supervision, you should be aware that any act of domestic violence will not be tolerated. Parole Officers are trained to identify, investigate and respond to incidences of domestic violence. If you involve yourself in domestic violence, your Parole Officer will hold you accountable, as this behavior is both a crime and a violation of parole. If you are under Parole supervision and you are a victim of domestic violence, you should seek assistance and referral from your Parole Officer.

The Division of Parole provides support, assistance and service referral to victims and survivors of domestic violence.

9. WHAT IS THE SEX OFFENDER REGISTRATION ACT AND DOES IT APPLY TO ME?

New York State's Sex Offender Registration Act applies to individuals who committed certain sex offenses on or after 1-21-96. It also applies to individuals who committed an offense before 1-21-96 if that individual was still serving a sentence of probation, parole or incarceration for a specified offense when the law went into effect.

If you were convicted of a registerable crime, you will be asked to sign a Sex Offender Registration Form. This form explains your responsibility to register your address with the Division of Criminal Justice Services on an annual basis, provide written notice of any change of address within 10 days of the change and any other obligations under the law that may pertain to you.

A Court will determine your risk level under section 168-d of the Correction Law, which controls the amount of information that can be made available about you. The Court's designation also determines the length of time you must register as a sex offender.

If you ever move to another state, you may be required to register as a sex offender. Your duties to New York State under the Sex Offender Registration Act continue.

10. WHAT ARE SEX OFFENDER RISK LEVELS AND DESIGNATIONS, AND WHAT DO THEY MEAN?

If you have been convicted of a registerable crime, you will be assigned one of the following risk levels:

- Level 1 - low risk of repeat offense;
- Level 2 - moderate risk of repeat offense;
- Level 3 - high risk of repeat offense and a threat to public safety exists.

If you are a Level 1, confirmation of your registration is available to the public. If you are a Level 2, all registration information except your exact address is available. If you are a Level 3, all registration information including your exact address is available.

Additionally, the Court determines whether you should be designated a sexual predator, a sexually violent offender, or a predicate sex offender. The Court will advise you how long you must register.

If you are determined to be a Level 3 or a sexual predator, you must personally verify your address every 90 days with the local law enforcement agency with jurisdiction over your place of residence.

11. WHAT HAPPENS IF I FAIL TO REGISTER OR VERIFY MY ADDRESS OR OTHER REQUIRED INFORMATION WITH THE SEX OFFENDER REGISTRY?

If you fail to register or verify, you may be convicted of a Class E felony. If you are convicted of a second or subsequent offense, you may be found guilty of a Class D felony. Failure to register or verify may also be the basis for revoking your release status.

12. ARE THERE ANY OTHER REQUIREMENTS SPECIFICALLY FOR SEX OFFENDERS?

The Sexual Assault Reform Act applies to certain sex offender cases. A mandatory condition of release applies to you if you are a Level 3 sex offender or were released to the community on or after 2-1-01 and are serving one or more sentences for a specified sex offense, and the victim was under the age of 18 at the time of the offense. You will not be allowed to be near or enter upon any school grounds or any other facilities or institutions primarily used for the care and treatment of persons under the age of 18, unless you meet certain criteria and have the written permission of your Parole Officer.

13. WHAT IS A DISCRETIONARY SEX OFFENDER?

A discretionary sex offender is generally a person who has a history of sexual offense or pattern of inappropriate sexual behavior, but is not subject to the Sex Offender Registry for any number of reasons. If you are determined to be a discretionary sex offender, you will be supervised by the Division of Parole on an intensive basis.

14. WHAT ARE MY RESPONSIBILITIES WHILE UNDER SUPERVISION?

You are required to adhere to all requirements of your sentence (including any restitution order, order of protection, payment of supervision fees, etc.). Your specific responsibilities are included in the conditions of parole. In a more general sense, you are responsible for obeying the law, remaining sober, and for working with your Parole Officer in a cooperative and open manner. This will enable you to resolve problems you may be having in adjusting to the community. Above all, these difficulties must be handled with your Parole Officer to help you remain a law-abiding citizen and achieve success in the community.

15. WHAT IS "REPORTING"?

Reporting is when you meet with your Parole Officer. You may have to report to your Parole Officer at the Division's area office as often as every week or as infrequently as once every three months. Your reporting schedule depends on your level of supervision and how well you are adjusting to parole supervision.

In some of the rural areas of New York State, reports may be made either by telephone or by mail, if approved by your Parole Officer.

Office reports are required for individuals under parole supervision, and failure to make them is considered a violation of parole. If and when unexpected circumstances do not permit actual visiting, you should contact your Parole Officer by telephone to ask to be rescheduled. If your Parole Officer is not in the office when you make your report or call to be rescheduled, you should be sure to speak to his or her partner or supervisor, or another Parole Officer who can talk to you and leave a message for your assigned Parole Officer.

16. WHAT ARE HOME VISITS?

Your Parole Officer will visit and speak with you at your home. Home visits add to his or her understanding of how you are adjusting to the community and allow your Parole Officer to speak with you and members of your family in a comfortable atmosphere to learn more about your adjustment.

17. WILL MY PAROLE OFFICER VISIT ME ON MY JOB?

Your Parole Officer must make sure that you are working and will generally visit your place of employment. If you feel that this might present a problem, you should advise your Parole Officer, and request that he or she consider alternatives.

18. WHAT HAPPENS IF I CANNOT FIND A JOB OR NEED JOB TRAINING?

The Division of Parole hopes that you have taken advantage of educational and vocational training programs offered to you during your incarceration. All parolees, if able to work, are expected to obtain employment as soon as possible after release and to keep that or other employment. The supervision provided by the Division is about your learning to be self-sufficient and responsible, and a job is necessary if you are going to achieve those things. The Division works with the Department of Labor, and at some field office locations, can offer the opportunity to search job banks on-site. You can be referred to a Department of Labor One Stop Job Center in your county or neighborhood for employment opportunities, vocational testing, training and job referral. Additionally, the Division can send you to an employment program, where you will work on your skills, receive assistance in applying for employment and work with a job developer.

19. DOES THE DIVISION DO DRUG TESTING?

Yes. The Division considers drug testing to be an important component of supervision. You may be required to comply with substance abuse testing at the time of your office reports or when your Parole Officer visits you. Drug testing allows your Parole Officer to determine whether or not you are using illegal or unauthorized controlled substances. A positive test may result in a referral to substance abuse treatment or, in some cases, may constitute a violation of parole.

20. WHAT ASSISTANCE IS AVAILABLE IF I HAVE DRUG OR ALCOHOL USE PROBLEMS?

If you have a substance abuse problem, you may be referred by your Parole Officer to a counselor or a program that can provide drug or alcohol abuse treatment. Your Parole Officer may require that you enter and complete an outpatient, day treatment, or residential program in the community.

21. IF I VIOLATE PAROLE BY USING DRUGS, WILL I BE SENT BACK TO PRISON?

The Division has developed a network of alternatives to incarceration to address relapse throughout the State to provide parolees with outpatient, residential, detox, and day treatment services. However, if you demonstrate that you are unable to remain sober or drug free while in the community, you may be returned to prison through the violation process. The Division has developed a system of graduated responses that can include such actions as the Willard Drug Treatment Campus, Community Based Residential programs, Electronic Monitoring, and local jail-based substance abuse treatment programs.

22. WHAT ARE INTENSIVE AND REGULAR SUPERVISION?

Intensive Supervision is a status assigned to you immediately upon your release to parole supervision. You will remain in this supervision phase for at least twelve months. During this re-adjustment period, your Parole Officer will be making frequent home visits, and you will be required to make frequent office reports.

Sexual offenders remain under intensive supervision as long as they are under supervision.

Most parolees are placed in Regular Supervision after a minimum of twelve months of supervision. You will remain in this supervision status until you receive, if eligible, merit termination, mandatory termination, a three-year discharge or reach your maximum expiration date.

Under Regular Supervision, you may be reporting less frequently to your Parole Officer and your Parole Officer may be making less frequent visits to your home. Employment verifications will continue to be made by your Parole Officer.

23. HOW LONG WILL I REMAIN UNDER SUPERVISION?

As a general rule, you will remain under supervision until you are discharged from your sentence. If you meet certain criteria, you may be considered for merit termination or mandatory termination of sentence after one, two or three years of unrevoked supervision. If you are eligible, your Parole Officer can seek a review of your case for three-year discharge consideration by the Board of Parole. Otherwise, you will finally be discharged when you reach the maximum expiration date of your sentence or complete your period of post-release supervision.

24. WHAT FACTORS WILL BE CONSIDERED BEFORE I AM MOVED TO ANOTHER LEVEL OF SUPERVISION?

After twelve (12) months of uninterrupted supervision, you will automatically be moved to regular supervision. However, your Parole Officer can evaluate your time on supervision, whether you are in school or a training program, whether you are employed, and your level of success within the community. Your ability to abide by the rules of parole and stay sober is critical and will impact the frequency of your report schedule. Based on this evaluation, your Parole Officer can have you moved back to intensive supervision if your community adjustment has been problematic.

It is important to remember that, just as your reporting requirements may be reduced as you show signs of requiring less supervision, they can also be increased if necessary.

25. WHAT IS MERIT TERMINATION AND MANDATORY TERMINATION OF SENTENCE?

Some releasees qualify for a Merit Termination of Sentence granted by the Division of Parole prior to the Maximum Expiration Date of the sentence. This means that the particular sentence is terminated and the releasee will no longer be under the jurisdiction of the Division of Parole.

A Mandatory Termination of Sentence must be granted by the Division when you have served either two or three years of unrevoked parole supervision for a felony conviction under Articles 220 or 221 of the Penal Law. For those serving indeterminate sentences for Class A felony drug offenses, they must achieve three years of unrevoked supervision

before this type of discharge can be granted. For all other offenders serving sentences for Class B or less than Class B felony offenses, two years of unrevoked supervision must be achieved in order to obtain this type of discharge.

Generally, non-violent felony offenders who meet the requirements of Section 259-j of the Executive Law may be eligible for a Merit Termination of Sentence. All violent felony offenders, a majority of sex offenders and those convicted of other offenses enumerated in Section 259-j of the Executive Law are not eligible for a merit termination of sentence. Changes in 2004 to Section 259-j, Laws of 2004, Chapter 738, have expanded Merit Termination availability.

Individuals not being supervised in New York State pursuant to the Interstate Compact, and those eligible for deportation or in the custody of ICE/BICE are not included. Eligible releasees shall be considered for a possible Merit Termination of Sentence after one year of community supervision. Article 220 Class A-felony offenders may be considered after two years of community supervision.

The Merit Termination of Sentence can be granted only when it has been determined that it is in the best interest of society to do so and that you have made a good faith effort to comply with any restitution order and/or pay any mandatory court surcharge. Your Parole Officer can answer questions and discuss the particulars of a Merit Termination of Sentence with you anytime throughout your period of parole supervision.

26. WHAT IS A THREE-YEAR DISCHARGE?

Under certain circumstances, depending on your crime of conviction, you can receive an early discharge from supervision. Your Parole Officer will advise you whether you will be eligible for a merit termination of sentence or a three-year discharge, and the criteria that must be met.

27. IF I BECOME SERIOUSLY ILL, CAN I BE EXCUSED FROM REPORTING IN PERSON?

In case of documented illness, disability, or extended stay in a program approved by your Parole Officer, you may be excused from reporting.

28. IF I WANT TO VISIT OR MOVE TO ANOTHER AREA WITHIN NEW YORK STATE, WILL I BE ASSIGNED A NEW PAROLE OFFICER?

Each Parole Officer handles parolees living within the area to which the Parole Officer is assigned. If you wish to move to another area, you must seek permission from your current Parole Officer. He or she will request that the Parole office in the area to which you wish to move investigate your newly proposed program. If the move is approved, your parole supervision will be transferred to a new Parole Officer. If you desire to travel outside the geographic boundaries of the Region (or any geographic boundaries imposed on you by your PO) for a brief visit, you must have a travel permit issued by your Parole Officer. Your current Parole Officer will advise the local Parole office and you can call there if you get into difficulty. However, your parole supervision will not be transferred.

29. CAN I LEAVE THE STATE TO VISIT?

Out-of-state travel requires the permission of your Parole Officer and a travel pass. You must request a travel pass from your Parole Officer with the following information: why and when you plan to leave, how you plan to travel, with whom you plan to travel, where you plan to stay, and when and how you plan to return. In some states, it will be necessary for you to check in with the local police department. Initially, no visit can be approved for a period of over two weeks. Longer stays involve at least some supervision by the parole authorities in the state being visited. It is always helpful to give your Parole Officer as much advance notice as possible regarding a planned trip so that he or she can have the necessary paperwork completed in sufficient time. A Senior Parole Officer must approve travel passes.

30. WHAT IS ABSCONDING?

Absconding is when you stop seeing your Parole Officer. The conditions of release specify a number of situations that could be considered absconding in the absence of a satisfactory explanation. These include failure to make an office report to your Parole Officer, failure to attend a mandated treatment program, changing your address without permission, or leaving the boundaries of your Region or state without permission. Absconding will lead to the issuance of a warrant for your arrest.

31. WHY IS ABSCONDING AN IMPORTANT ISSUE?

Continued contact with your Parole Officer is the essence of successful parole supervision. If you break off contact, your Parole Officer can no longer assist you or ensure that you are complying with the conditions of your release.

32. WHAT HAPPENS IF I AM ARRESTED?

You must report any arrests or contacts with law enforcement officers or agencies to your Parole Officer. He or she will complete an investigation of the incident. If circumstances warrant, parole violation charges may occur after the investigation is completed.

33. WHY IS PAROLE CHARGING A MONTHLY SUPERVISION FEE?

New York State has enacted a law (Executive Law, Section 259-a [9]) requiring every releasee to pay a monthly supervision fee. Generally, releasees are expected to pay $30 per month. Your Parole Officer will discuss this fee with you, how the fee is to be paid, and in certain circumstances, may be able to waive the fee if you are unemployed or if paying the fee would cause a hardship.

SECTION FOUR
REVOCATION PROCESS

1. WHAT HAPPENS IF A VIOLATION OCCURS?

If your Parole Officer obtains information that indicates that you may have violated one or more of the conditions of your release, he or she will investigate this information and then confer with a supervisor. If the investigation discloses evidence that you may have violated one or more of the conditions of your release in an important respect, a parole violation warrant may be issued and lodged against you as a detainer following your apprehension. You would then be served with: (1) a Notice of Violation that describes the hearing process and lists your rights with respect to those hearings; and (2) a Violation of Release Report that describes the manner in which you allegedly violated one or more of the conditions of your parole.

2. WHO ISSUES THE WARRANT?

The warrant may be issued by a member of the Board of Parole or by a designated officer whom the Board has empowered to issue warrants. In order for a warrant to be issued, the Parole Officer who supervises you must present information to the designated officer or Board member which shows that there is reasonable cause to believe that you have violated one or more of the conditions of your release in an important respect.

3. WHAT HAPPENS WHEN THE WARRANT IS EXECUTED?

When the Parole violation warrant is executed, you will be detained in a local facility or detention center and may not be released on bail. Within three days (five days if you are out of state) of the lodging of the warrant, you will be served with both the Notice of Violation and the Violation of Release Report. The Notice of Violation states your rights, and the date, place, and time of your Preliminary Hearing and your Final Hearing. The Violation of Release Report notifies you of the charges against you. Within fifteen days of the lodging of the warrant, a Preliminary Hearing must be scheduled unless you waive such hearing. If, at the Preliminary Hearing, it is found that there is not probable cause to believe that you have violated a condition of release in an important respect, the warrant will be cancelled and you will be restored to parole supervision. If probable cause is found at the Preliminary Hearing, or if you waive the Preliminary Hearing, an Area Supervisor or a member of the Board of Parole will review your case and determine whether to declare you delinquent and order a Final Hearing or to restore you to supervision.

4. WHAT IS THE PURPOSE OF THE VIOLATION OF RELEASE REPORT AND THE NOTICE OF VIOLATION?

The Violation of Release Report notifies you of the rules you are alleged to have violated and the manner in which you violated those rules.

The Notice of Violation advises you of the date, place, and time that the Preliminary Hearing will be held and all your rights at the Preliminary Hearing. These include the right to appear and speak on your own behalf and to produce letters, witnesses, or

documentary evidence to support your case. In addition, you may confront and cross-examine the Division's witnesses, unless good cause is shown why they should not appear at the hearing.

Using the space provided on the Notice of Violation, you may waive your right to the Preliminary Hearing; doing so amounts to a finding of probable cause. The Notice of Violation also contains a tear-off form for requesting assistance in obtaining assigned counsel if you cannot afford to hire an attorney.

5. MUST I DISCUSS THE VIOLATIONS WITH MY PAROLE OFFICER?

While you are on parole, you must reply promptly, fully, and truthfully to inquiries and communications from your Parole Officer. At the time that the Notice of Violation is served upon you, your Parole Officer must read to you the alleged violations. He or she must report to the Board of Parole any statement that you make with respect to the alleged violations. You do not have to testify at the Preliminary or Final Hearing. When your Parole Officer is preparing the Violation of Release Report, he or she can inquire whether you wish to make a statement concerning the charges to be included in the report. You do not have to make a statement. Any statement you do make may be used as evidence at the Preliminary and Final Hearing.

6. HOW CAN I FIND A LAWYER TO ASSIST ME?

Although there is no absolute right to counsel at your Preliminary Hearing, you may appear with an attorney at this hearing. If you cannot afford an attorney, your Parole Officer may be aware of agencies which may be available to help you and will advise you of them when he or she serves you with the Notice of Violation. However, if you are unable to obtain counsel before your Preliminary Hearing, you may again request counsel at the commencement of your Preliminary Hearing. If the Hearing Officer finds that it is necessary for you to have counsel at this hearing, he or she will order that the hearing be adjourned and take steps to assist you to obtain an attorney.

If a Final Hearing has been ordered in your case, you have an absolute right to have an attorney. One will be assigned to you if you cannot afford one. To obtain an attorney at your Final Hearing, you may write to the County Court in the county in which the hearing is to take place, or to a Legal Aid or Public Defender's office that provides counsel for such hearings. Upon request, your Parole Officer will provide you with the necessary information to assist you in obtaining an attorney.

7. IF I AM CONVICTED OF HAVING COMMITTED A CRIME WHILE UNDER PAROLE SUPERVISION, WILL I GO THROUGH THE NORMAL REVOCATION HEARING PROCESS?

If you are convicted of having committed a crime while you are under parole supervision, you forfeit your right to a Preliminary Hearing, and you may also forfeit your right to a Final Hearing.

If you are convicted of a misdemeanor, you are not entitled to a Preliminary Hearing. You will, however, receive a Final Hearing.

If you are convicted of a felony and sentenced to an indeterminate or determinate term, your parole is revoked by operation of law without the need for either a Preliminary or Final Hearing.

8. WHAT DOES BEING DECLARED DELINQUENT MEAN?

An Area Supervisor or a member of the Board may declare you delinquent in four situations:

(1) when there is a reasonable cause to believe that you have absconded from supervision;
(2) when probable cause has been found at a Preliminary Hearing that you have violated one or more of the conditions of release;
(3) when you are an alleged parole violator and waive your Preliminary Hearing; and
(4) when you have been convicted of a new crime while under parole supervision.

With the exception of those who have been convicted of a new felony, releasees, once declared delinquent, must be given a Final Hearing within 90 days of the finding of probable cause or the waiver of the Preliminary Hearing. If none of the violation charges are sustained at the Final Hearing, the delinquency is cancelled. Also, a declaration of delinquency can be cancelled by three members of the Parole Board or by an Administrative Law Judge, who must state the reasons for the cancellation in writing.

9. WHAT IS A PRELIMINARY HEARING?

A Preliminary Hearing is a prompt, informal, minimal inquiry into one or more of the alleged violations against you. The hearing is held in or near the community where the offense is alleged to have occurred, or where the parolee was taken into custody. The purpose of the Preliminary Hearing is to determine whether or not there exists probable cause to believe that you have violated one or more of the conditions of your release in an important respect. There are three differences between a Preliminary Hearing and a Final Hearing. At the Preliminary Hearing, all of the charges need not be heard. If the Preliminary Hearing Officer determines that probable cause exists after hearing one or more of the charges, the hearing is completed. Further, at the Preliminary Hearing, you cannot submit proof concerning mitigating factors or alternatives to your reincarceration. The Preliminary Hearing Officer cannot recommend a disposition in your case. He or she has the limited duty and power of determining whether probable cause exists. Finally, there is no absolute right to counsel at the Preliminary Hearing.

10. WHAT IS A FINAL REVOCATION HEARING?

To revoke your parole, the Division of Parole must prove at the Final Hearing by a preponderance of the evidence that you have violated at least one of the conditions of release in an important respect, as set forth in the Violation of Release Report. At this hearing, you have all the rights you had at the Preliminary Hearing. In addition, you have a right to assigned counsel if you cannot afford to hire a lawyer. At the Final Hearing, you may present evidence in mitigation of the alleged violation, as well as evidence supporting a disposition of an alternative to reincarceration.

The Final Hearing is held before a Parole Board Member or Hearing Officer, also referred to as an Administrative Law Judge (ALJ). On the basis of this hearing, the Parole Board Member or Hearing Officer makes a decision or, in some cases, a recommendation to the Board of Parole whose members will make the ultimate decision about the revocation.

11. WHAT ARE PAROLE REVOCATION GUIDELINES?

In January 1997, the Board of Parole adopted guidelines governing the parole revocation process. Under the amended regulations, revocation outcomes reflect a guideline structure that considers criminal history, crime of conviction, number of prior parole violations, and current violative behavior. The guidelines are structured to ensure that those violators with a history of violent behavior receive the most severe penalties and those with substance abuse problems receive the necessary treatment.

12. HOW DO THE REVOCATION GUIDELINES WORK?

Under the guidelines, most violators fall into one of three categories which result in a certain sanction or range of sanctions. The three major categories are described below:

Category 1 cases include the following violators:

- Conditionally released on a violent felony offense as defined under Penal Law Section 70.02;
- Paroled or conditionally released on an A-1 felony offense;
- Paroled or conditionally released on any felony offense under Article 125, 130, 135, 263 or Section 255.25 of the Penal Law;
- Paroled on any violent felony offense or youthful offender adjudication involving the use, or threatened use, of a deadly weapon or dangerous instrument or the infliction of physical injury;
- Current violative behavior involving the use, or threatened use of a deadly weapon or dangerous instrument or the infliction or attempted infliction of physical injury, or possession of a firearm, or threats toward Division staff; or
- A criminal record that includes either a violent felony conviction, or youthful offender adjudication that occurred within the 10-year period preceding the commission of the felony on which the current sentence is based and involved the use or threatened use of a deadly weapon or dangerous instrument or the infliction of physical injury. Any period of time during which the person was incarcerated shall be excluded in calculating the 10-year period preceding the act.

The time assessment imposed on sustained Category 1 cases can be no less than 15 months; however, the Division may grant a mitigating reduction of up to three months. Potential Category 1 cases may also be restored to the Willard Drug Treatment Center (WDTC).

Category 2 cases include the following violators:

- The current conviction is for a felony, other than A-1, defined by Article 220 or 221 of the Penal Law and the sustained violation is for other than a felony committed while on parole; or
- The current sentence is based on a conviction other than Penal Law Article 220 or 221 offense which is neither a violent felony offense or a Class A felony and the current violation charge is sustained on a Rule 8 drug or marijuana charge, Rule 11 charge or special condition prohibiting the use of alcohol.

All Category 2 violators are revoked and restored to Willard DTC. However, a parole violator may be exempted from mandatory participation in Willard DTC (and moved to Category 3) when one of the following circumstances applies:

- Time remaining on sentence as of warrant lodge date is less than nine months;
- Felony charges are pending as of Final Hearing date; or
- Medical or psychiatric ineligibility.

Category 3 cases include parole violators that do not fall under Categories 1 or 2.

The time assessment imposed on a Category 3 violator whose crime of conviction is a violent felony offense as defined in Penal Law Section 70.02 is the time spent in custody (at the time of the Final Hearing) plus six months. For a violator with a non-violent felony offense as a crime of conviction, the time assessment is time spent in custody plus three months.

Persistent Violators are Category 2 or 3 cases with two prior sustained violations, who upon receiving a third violation (or more), may receive a time assessment not to exceed 12 months.

Certain types of parole violators do not fall into Category 1, 2, 3 and do not receive an established sanction. In these cases, a time assessment or revocation decision is imposed by an Administrative Law Judge or by the Board of Parole. These include:

- Those sentenced to Willard under Section 410.91 of the Criminal Procedure Law (judicially sanctioned);
- Those restored to Willard who fail to successfully complete the 90-day program.
- Under the guidelines, graduates of the Shock Incarceration Program may be revoked and restored to Willard. However, if shock graduates receive a time assessment, the time assessment shall be at least for a period of time equal to the minimum period of imprisonment imposed by the court.

Mitigating Circumstances Under the new regulations there are five sets of mitigating circumstances which, if demonstrated, allow for a departure from the mandatory penalties imposed on Category 1, 2, and 3 violators. The mitigating circumstances are:

- The violator is the custodial parent of a minor child, and has been the actual primary

caregiver for at least 12 months, or since birth or adoption prior to incarceration on the warrant. If restored, the violator has a stable residence and means of support so that he or she would continue to care for the child;

- The violator's parole supervision prior to the conduct for which the warrant was issued is deemed acceptable by the Division and has a stable residence and prior employment;
- The violator has voluntarily returned to supervision after absconding;
- The violator has a new pending criminal charge and the new charge is being disposed of by referral to any alternatives to incarceration program (ATI). Restoration to parole supervision is conditioned only upon the successful completion of the ATI program; or
- The violator who would otherwise be a Category 2 violator but whose medical or psychiatric needs cannot be met at Willard.

If one or more mitigating circumstances apply, violators can be revoked and restored to supervision if the Division has found that:

(1) The violator's program needs could be adequately addressed in the community with supervision; and

(2) That restoration to supervision would not have an adverse effect on public safety.

13. WHAT ARE THE POWERS OF A HEARING OFFICER?

There are two types of hearing officers: (a) the Preliminary Hearing Officer; and (b) the Final Hearing Officer or ALJ.

A Preliminary Hearing Officer is authorized by the Board of Parole to conduct Preliminary Hearings. The Preliminary Hearing Officer has the power to adjourn or postpone the hearing and all the powers necessary to insure the efficient conduct of the hearing. He or she can also decide whether to grant any request you may make for counsel. It is his or her duty to determine whether or not upon the proof submitted at the hearing, probable cause exists to believe that you have violated a condition or conditions of your release in an important respect. The Preliminary Hearing Officer may hear any of the charges against you. He or she must hear those charges one at a time, and may conclude the Preliminary Hearing at any time after he or she finds probable cause that you have violated a condition or conditions of your release in an important respect. After hearing the charges at a Preliminary Hearing, should the Preliminary Hearing Officer find that probable cause has not been proven, he or she must dismiss the warrant against you and you will be promptly returned to supervision.

The Final Hearing Officers (Administrative Law Judges) are appointed by the Chairwoman of the Board of Parole. The ALJ conducts the Final Hearing and has the powers necessary to accomplish this function, including the power to adjourn the proceeding. They determine, on the basis of the evidence presented at the Final Hearing, whether any or all of the charges of violation have been sustained by a preponderance of the evidence. When one or more of the charges are sustained and are found to represent a violation of the conditions of your release in an important respect, the ALJ will either render the final decision, or in certain circumstances, make a recommendation to the Board of Parole whose members would then make the ultimate revocation decision.

14. HOW SOON WILL I HAVE MY HEARING?

The law requires that your Preliminary Hearing be scheduled to take place within fifteen days of the execution of the Parole Violation Warrant against you.

Your Final Hearing, should one be ordered, must be scheduled to take place within ninety days from the date of your Preliminary Hearing or from the date that you waived your Preliminary Hearing. This time may be extended if you or your attorney is granted an adjournment, which is charged to you.

15. IF MY PAROLE IS REVOKED, CAN I BE RE-RELEASED AGAIN?

Yes. After serving a mandated period of reimprisonment following a final hearing (i.e. time assessment), you are eligible for re-release from state prison. Depending on the nature of the sentence you are serving, this release may occur after Parole Board review or by operation of law.

16. WHAT HAPPENS IF I'M REVOKED AND RESTORED TO THE WILLARD DRUG TREATMENT CAMPUS?

The Willard Drug Treatment Campus is a 90-day OASAS licensed residential drug and alcohol treatment program operated by the Department of Correctional Services and the Division of Parole. Parolees with a substance abuse history or whose violation involves substance abuse may be revoked and restored to Willard through the parole revocation process. Once you have completed the Willard program, you will be transferred to a Parole field office to resume your community supervision.

17. IF MY PAROLE OR CONDITIONAL RELEASE IS REVOKED, WILL I GET CREDIT FOR THE TIME I WAS UNDER SUPERVISION?

Yes. You will receive supervision credit for all the time you spent on parole or conditional release up until the date for which delinquency was declared.

18. IF I HAVE ABSCONDED, DOES THE TIME THAT I WAS NOT UNDER PAROLE SUPERVISION APPLY TO MY MAXIMUM SENTENCE?

Generally, no. Once you abscond, the Board of Parole will declare you delinquent as of the date you absconded, which stops the running of your sentence. When you are apprehended and lodged in a detention facility on a parole violation warrant, your time starts to be credited against your maximum sentence, unless you are arrested for criminal conduct that results in a new conviction. In that case, it is possible that time spent awaiting trial and sentencing will be applied only to the new sentence, even if there is a parole warrant lodged against you. If, after absconding, you voluntarily turn yourself in and the Board of Parole decides to cancel your delinquency, you do get credit for the time while you were an absconder, and there is no change in your maximum expiration date.

19. HOW DOES "GOOD TIME" WORK IF MY PAROLE HAS BEEN REVOKED?

Violators serving indeterminate sentences who are returned to a state correctional facility owing more than one year may earn good time equaling up to one-third of your remaining sentence. In other words, if you are returned owing fifteen months on parole on an indeterminate sentence, you may receive five months good time and be eligible for conditional release ten months after being returned. Violators returned to incarceration from a period of post-release supervision are not eligible for good time or a new conditional release date.

SECTION FIVE
SENTENCING REFORM ACTS

1. WHAT IS THE SENTENCING ACTS OF 1995 AND 1998?

The Sentencing Reform Act of 1995, and the Sentencing Act of 1998, which is known as Jenna's Law, mandated that any offenders convicted of legislatively defined Violent Felony Offenses receive determinate sentences, rather than indeterminate sentences.

Under the 1995 Act, determinate sentencing was applied to second felony offenders being sentenced for violent felony offenses committed on or after October 1, 1995. Offenders who receive a determinate sentence are not eligible for release consideration by the Parole Board.

These individuals may be conditionally released to supervision by the Division of Parole, after completion of 6/7 (85%) of the sentence imposed, provided that they are granted the requisite good time allowances based upon their adjustment to the rules and regulations of the Department of Correctional Services while incarcerated.

Jenna's Law mandated that determinate sentences be imposed for any violent offenses committed after September 1, 1998, whether they were first or subsequent felony offenses. Jenna's Law also established mandatory periods of post-release supervision that must be served under the jurisdiction of the Division of Parole. First time Violent Felony offenders received up to five years of post-release supervision, with the length determined by the felony class of the conviction. Second Violent Felony offenders must serve a mandatory five-year period of post-release supervision, regardless of the felony class of the present offense. Individuals returned to prison as parole violators from a determinate sentence, must serve a minimum of six months – but may serve as much as five years. In addition, they will not be eligible for conditional release, but must serve the time assessment imposed by the Parole Board for the parole violation. There is no good time off the period of post-release supervision.

The Parole Board, prior to conditional release on a determinate sentence, will establish conditions for the post-release supervision period.

2. WHAT IS THE WILLARD DRUG TREATMENT CAMPUS?

The Willard Drug Treatment Campus is a 900 bed OASAS licensed residential drug and alcohol treatment program operated and staffed by both DOCS and the Division of Parole. This program is designed to assist participants to achieve, develop and/or maintain recovery and mandates a minimum 90-days of intensive substance abuse treatment at Willard.

Willard serves two distinctive types of offenders with substance abuse histories. The first, known as Judicially Sanctioned, was established as the result of the Sentencing Reform Act of 1995. Second felony offenders with a conviction for specific drug and/or property offenses, with no prior convictions for violent offenses, are eligible. These individuals

may be judicially sentenced directly to Parole supervision with a requirement to complete the Willard program.

The Willard Campus also serves as an alternative to re-incarceration for certain parole violators who have been revoked and restored to this program.

All Willard graduates who successfully complete the program are returned to the community to continue under intensive parole supervision and in additional mandated treatment. Graduates are provided with an aftercare appointment or placement with an OASAS licensed substance abuse treatment program to assist in ensuring continuity of care and treatment.

3. HOW DID THE SENTENCING REFORM ACT MODIFY CONDITIONAL PAROLE FOR DEPORTATION ONLY (CPDO)?

The Executive Law 259-i (2)(d)(i) now gives the Board of Parole authority to grant release from custody, for deportation only, to an inmate who has been ordered deported by the Immigration and Customs Enforcement (ICE). Pursuant to the Sentencing Reform Act of 1995, you can now be eligible for CPDO release decision prior to your parole eligibility (PE) date if you have received a final order of deportation from ICE, have exhausted or waived all your appeals, and are not convicted of certain offenses.

If you are a CPDO case prior to your PE date and have not served the full minimum term of your sentence, the Board can grant you early CPDO, which will be effective the date of your interview. If the Board denies your early release to ICE, they must provide you with reasons for denial. The Parole Board will set your next appearance. If you are a CPDO case at or after your PE date, the Board can deny your release with or without reference to CPDO, or the Board can grant release and establish an open date.

SECTION SIX
INTERSTATE

1. CAN I BE PAROLED TO ANOTHER STATE?

Yes, if you are accepted by the other state under the Interstate Compact for Adult Offender Supervision.

2. WHAT IS THE INTERSTATE COMPACT FOR PAROLE?

The Interstate Compact for Adult Offender Supervision is an agreement among the fifty states, Puerto Rico, the Virgin Islands and the District of Columbia that allows individuals paroled by one state to be supervised in another state. The authority for the Interstate Compact is contained in section 259-mm of the Executive Law.

3. WHAT IS THE PROCEDURE FOR OUT-OF-STATE PAROLE?

You should discuss your release plans with your Facility Parole Officer prior to your Board appearance for release consideration. If you request an out-of-state parole program, the plan will be forwarded to the other state for investigation. When the investigation is completed, the results will be forwarded to the institution and will be discussed with you by your Parole Officer. If you have been accepted for parole by the other state, you can be paroled directly to that state if the Board makes a positive release decision.

4. APPROXIMATELY HOW LONG WILL IT TAKE TO PROCESS MY REQUEST FOR INTERSTATE PAROLE/CONDITIONAL RELEASE?

Each State has different processing times. It could take anywhere from eight (8) weeks to over three (3) months to process an out-of-state investigation request. It is important that all inquiries as to the status of the investigation be made through your Parole Officer.

5. IF PAROLED IN NEW YORK STATE, MAY I LATER TRANSFER MY PAROLE OUT-OF-STATE?

Yes. Transfer to another state must be discussed with your Parole Officer. The process is similar to the process for being released directly to out-of-state parole officials, and takes about the same amount of time, and all inquiries as to the status of the investigation must be made through your Parole Officer.

6. MAY I BE PAROLED TO RETURN TO MY NATIVE COUNTRY?

Yes. You can apply, either while still in the institution or while on parole supervision to be repatriated to your native country. You must make your own travel arrangements and have verification of citizenship in your native country. The Board of Parole reviews such requests. If approved, you will be required to contact New York State Parole in writing upon arrival in your country. You will not be permitted to return to the United States without the permission of the Parole Board, or the appropriate federal authority if there is an immigration issue.

7. WHAT IF I AM PAROLED TO AN IMMIGRATION WARRANT?

If you are paroled to an Immigration warrant and deported as a result of that warrant, you are prohibited from reentering the United States without permission of the appropriate United States Immigration officials. To do so would be a violation of your parole. If, upon parole from a state correctional facility or at any time thereafter you are released from an Immigration warrant, you are required to report to the appropriate New York State Parole area office to be placed on supervision.

8. WHAT PAROLE CONDITIONS WILL I BE UNDER?

If paroled out-of-state under the Interstate Compact, you will be under the parole rules of both the sending and receiving states. For example, if you are paroled to North Carolina, you will be under the parole rules of New York and North Carolina. The same standard of supervision that applies in the receiving state for the supervision of its own releasees applies to out-of-state releasees sent there under terms of the Interstate Compact.

9. IF I VIOLATE THE CONDITIONS OF MY PAROLE OUT-OF-STATE, WILL I BE RETURNED TO NEW YORK?

If you are paroled to another state under the Interstate Compact, you agree to waive extradition (to return voluntarily) to the sending state if instructed to do so. If you violate the conditions of parole in the receiving state, the situation will be reviewed by the New York State Board of Parole. If it is determined by the New York State Board of Parole that a Final Hearing should be conducted, you will be returned to New York State when available to the New York State Parole violation warrant.

SECTION SEVEN
JUVENILE OFFENDERS

1. WHAT IS A JUVENILE OFFENDER (JO)?

A "juvenile offender" is:

A. A person, 13 years old who is criminally responsible for acts constituting Murder, 2nd Degree as defined N.Y. Penal Law §§125.25(1) & (2), and

B. A person 14 or 15 years old who is criminally responsible for acts constituting the following crimes:

- Murder, 2nd Degree - (Penal Law §§125.25[1] and [2]);
- Murder, 2nd Degree - (Penal Law §125.25[3]), provided that the underlying crime for the murder charge is one for which such person is criminally responsible;
- Kidnapping, 1st Degree – (Penal Law §135.25);
- Arson, 1st Degree – (Penal Law §150.20);
- Assault, 1st Degree – (Penal Law §120.10[1] & [2]);
- Manslaughter, 1st Degree (Penal Law§125.20);
- Rape, 1st Degree – (Penal Law§130.35[1] & [2]);
- Criminal Sexual Acts, 1st Degree (Penal Law§130.50[1] & [2]);
- Aggravated Sexual Abuse, 1st Degree – (Penal Law §130.70);
- Burglary, 1st Degree – (Penal Law§140.30); k) Burglary, 2nd Degree – (Penal Law §140.25[1]);
- Arson, 2nd Degree – (Penal Law §150.15);
- Robbery, 1st Degree – (Penal Law §160.15); n) Robbery, 2nd Degree – (Penal Law §160.10[2]);
- Criminal Possession of a Weapon, 3rd Degree - (Penal Law; §265.02[4], where the firearm is possessed on school grounds, as defined in Penal Law §220.00(14);
- Criminal Possession of a Weapon, 2nd Degree – (Penal Law §265.03) where a machine gun or firearm is possessed on school grounds, as defined in Penal Law §220.00(14); or
- An offense defined by the Penal Law as an Attempt to Commit Murder, 2nd Degree or Kidnapping, 2nd Degree.

Individuals who are 16 years of age or older, must be prosecuted as adults for their alleged criminal behavior. Those who are 15 years old, or younger, are normally prosecuted in the Family Court. Section 70.05 of the Penal Law provides for the sentences that are to be imposed by the Court if a person is convicted of a crime as a juvenile offender. Courts may determine that a juvenile offender should be afforded "Youthful Offender" status. How such offenders are treated is addressed in Section 3.

2. HOW DOES THE PAROLE PROCESS WORK FOR JUVENILE OFFENDERS?

In most cases, the parole process is exactly the same for Juvenile Offenders as it is for adults. However, separate Juvenile Offender Parole Release Decision-Making Guidelines are used by the Board to assist the release decision.

3. WHAT IS A YOUTHFUL OFFENDER ADJUDICATION AND HOW IS IT RELATED TO JUVENILE OFFENDER PROCESSING?

A Youthful Offender adjudication is a disposition of a case, allowable by law, which limits the public knowledge of the nature of the offense and may be substituted for a criminal conviction. In the discretion of the judge, Juvenile Offenders and persons at least 16 and less than 19 years of age may receive a Youthful Offender adjudication provided the conditions of Criminal Procedure Law § 720 are met.

4. WHAT ARE THE JUVENILE OFFENDER GUIDELINES?

The Juvenile Offender Release Decision-Making Guidelines were adopted by the Board of Parole to help the Board make just and reasonable release decisions. The guidelines are not intended to indicate the exact length of your time served before release. For further information about the Juvenile Offender Guidelines, ask for a copy of the Juvenile Offender Guidelines Manual from the law library of your facility or from your Facility Parole Officer.

SECTION EIGHT
RESTORATION OF RIGHTS

1. ARE THERE PROTECTIONS AGAINST EMPLOYMENT DISCRIMINATION BASED ON CRIMINAL CONVICTION?

Unless you have a mandatory disability imposed on you by law, the law requires employers with whom you have applied, to consider a number of factors including whether you have a Certificate of Relief from Disabilities or a Certificate of Good Conduct. Also, employers are forbidden to ask about or consider arrests that did not lead to conviction. Employers and licensing agencies are prohibited from denying your application because of a criminal record unless:

- There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought; or
- The issuance of the license or the granting of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

As a result of felony and certain misdemeanor convictions, you may be prohibited by law from engaging in certain types of employment and from applying for certain types of licenses. These disabilities may continue even after completion of the sentence imposed by the Court.

The Parole Board, in its discretion, may issue a Certificate of Relief from Disabilities or Certificate of Good Conduct. These two certificates have different eligibility criteria, and neither is issued prior to release from incarceration. A certificate may remove mandatory disabilities in general or only those specifically indicated by the Board of Parole. If either kind of certificate is issued only for specific disabilities, the Board may issue a supplementary certificate granting relief from additional disabilities.

2. FROM WHAT LICENSES AND EMPLOYMENT ARE OFFENDERS BARRED?

Legal bars to licenses and employment are contained in various laws enacted by the State Legislature. Some examples include employment as a security guard, private investigator, insurance broker and many local civil service positions, as well as licenses to sell liquor wholesale or retail, and licenses for real estate brokers and notary publics. This is not a complete list.

3. WHO IS ELIGIBLE FOR A CERTIFICATE OF RELIEF?

By law, you are eligible for a Certificate of Relief if you have not been convicted of more than one felony. For this purpose, two or more felony convictions stemming from the same indictment count as one felony. Two or more convictions stemming from two or more separate indictments filed in the same court, prior to conviction under any of them, also count as one felony.

The Board of Parole may also issue you a Certificate of Relief if you are an eligible offender who has been convicted in another jurisdiction and who now lives in New York State.

A Certificate of Relief may be issued upon an eligible individual's release from a correctional facility or at any time thereafter.

4. WHAT EFFECT DOES A CERTIFICATE OF RELIEF HAVE ON MY STATUS?

A Certificate of Relief may remove any mandatory legal bar or disability imposed as a result of conviction of the crime or crimes specified in the certificate. The Certificate of Relief does not, however, enable you to retain or become eligible for public office. Note that removing mandatory legal bars restores your right to apply and be considered for employment or license, but does not guarantee it will be granted.

A Certificate of Relief issued to you upon release, or once you are on parole supervision, is a temporary certificate. This certificate becomes permanent when you are discharged from supervision. During the time it is temporary, the certificate may be revoked by action of the Board of Parole.

5. WHO IS ELIGIBLE TO APPLY FOR A CERTIFICATE OF GOOD CONDUCT?

In contrast to the Certificate of Relief, you are eligible for the Certificate of Good Conduct even if you have been convicted of more than one felony. You do not become eligible for a Certificate of Good Conduct, however, until a minimum period of time has elapsed from the date of your unrevoked release from custody onto parole or from the date your sentence ended.

If the most serious conviction in your criminal history was for a C, D or E felony, you must wait at least three years from the date of your last conviction, payment of fine, or release from prison onto parole supervision, whichever is later. You will have to wait at least five years from your last conviction, payment of fine, or release from prison onto parole supervision if your most serious conviction was for an A or B felony.

The law requires potential employers to consider a number of factors including whether the individual has a Certificate of Relief from Disabilities or a Certificate of Good Conduct.

6. WHAT EFFECT DOES A CERTIFICATE OF GOOD CONDUCT HAVE ON MY STATUS?

A Certificate of Good Conduct has the same effect as the Certificate of Relief. In addition, the Certificate of Good Conduct may restore your right to seek public office. The certificate may remove all legal bars or disabilities or remove only specific bars or disabilities.

The Certificate of Good Conduct issued to you while under parole supervision is a temporary certificate. The certificate will become permanent upon discharge from

supervision. However, during the time it is temporary, it may be revoked by the Parole Board for violation of the conditions of release.

7. HOW ARE CERTIFICATE APPLICATIONS SUBMITTED?

If you have not completed your sentence, you cannot apply directly for a Certificate of Relief or a Certificate of Good Conduct. The application is submitted to the Board of Parole by Parole staff. If you are anticipating release consideration or are under parole supervision, you should discuss your desire to apply for a Certificate with your Parole Officer.

If you have completed your sentence, you may apply directly to the Certificate Review Unit of the Division of Parole for Certificates of Relief or Good Conduct. If you were convicted in another state or by a federal court, you may apply directly upon release from custody to the Certificate Review Unit.

8. HOW ARE VOTING RIGHTS RESTORED?

If you have been convicted of a felony and incarcerated, you lose the right to vote. The right to vote is automatically restored when you complete your maximum sentence or are discharged by the Board of Parole. While on parole, if you have been issued a Certificate of Relief from Disabilities or a Certificate of Good Conduct, you may register to vote. To register to vote you must complete a voter registration form and deliver it to your local Board of Elections. Registration forms are available at many government agencies, on the Internet at http://www.elections.state.ny.us or by calling 1-800-FOR-VOTE. You do not need to provide a Certificate of Relief from Disabilities or any other documentation about your criminal history in order to register to vote after you have completed your maximum sentence or been discharged from parole.

9. WHERE MAY I OBTAIN INFORMATION ABOUT CERTIFICATES OF RELIEF AND GOOD CONDUCT, AND ABOUT LICENSING AND EMPLOYMENT?

Article 23 of the New York Correction Law deals with Certificates of Relief from Disabilities and Certificates of Good Conduct. Article 23A of the Correction Law deals with licenses and employment of persons convicted of criminal offenses. Consult your Parole Officer about specific questions you may have.

SECTION NINE
EXECUTIVE CLEMENCY

1. WHAT IS EXECUTIVE CLEMENCY?

Clemency, as defined by the State Constitution (Article IV, Section 4), provides the Governor "the power to grant reprieves, commutations and pardons after convictions for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations, as he may think proper..." Only the Governor may grant clemency, and it is only granted under the most compelling circumstances.

2. WHEN ARE PARDONS CONSIDERED?

Pardons may be considered if no other adequate administrative or legal remedy is available:

- To permit a conviction to be set aside where there is overwhelming and convincing proof of innocence not available at the time of conviction;
- To relieve a disability imposed upon a conviction (this is rarely used since relief may generally be obtained by means of a Certificate of Good Conduct or Relief from Disabilities); or
- To prevent deportation or to permit reentry into the United States.

3. WHEN IS COMMUTATION OF SENTENCE CONSIDERED?

Commutation (reduction) of your minimum period of imprisonment may be considered to enable you to appear before the Board of Parole for release consideration at a time earlier than permitted by the court-imposed sentence.

Except in extraordinary circumstances, a case will be reviewed for possible commutation of sentence only if:

- Your term or minimum period of imprisonment is more than one year;
- You have served at least one-half of the minimum period of imprisonment;
- You will not become eligible for release on parole within one year from the date of application; and
- You are not eligible for release on parole in the discretion of the Board of Parole.

The Board of Parole is an independent body charged with the duty of determining which inmates sentenced to imprisonment and eligible for release on parole may be released, when they may be released and under what conditions. The Governor will, therefore, not intervene in such matters by considering for clemency any inmate who is eligible for parole release.

4. WHAT IS THE FUNCTION OF THE EXECUTIVE CLEMENCY BUREAU?

The Executive Clemency Bureau within the Division of Parole serves three primary functions:

- To screen candidates for satisfaction of the Executive Clemency eligibility requirements as set by the Governor's office;

- To gather materials concerning clemency applications; and
- To respond to letters from applicants and others regarding clemency applications.

5. WHERE MAY I OBTAIN MORE INFORMATION ABOUT EXECUTIVE **CLEMENCY**?

A two-page document entitled "Guidelines for Review of Executive Clemency Applications" is on file in the law library of each correctional facility for your reference.

SECTION TEN
APPEALS AND ACCESS TO PAROLE FILES

1. WHO IS ELIGIBLE TO FILE AN ADMINISTRATIVE APPEAL?

An administrative appeal may be filed by an inmate serving an indeterminate sentence in a New York State correctional facility operated by the Department of Correctional Services or by a Juvenile Offender in a facility operated by the Office of Children and Family Services. He or she must have received a determination of the Board of Parole denying discretionary release or a decision rescinding a prior grant of Parole. Also, any releasee who has had his or her parole, conditional release, presumptive release, or post-release supervision revoked by a final revocation determination is eligible to appeal administratively. The process for taking an administrative appeal is outlined in 9 NYCRR Part 8006.

2. IS THERE A TIME LIMIT FOR THE FILING OF A NOTICE OF APPEAL?

Yes. A Notice of Appeal must be filed with the Division's Appeals Unit located at 97 Central Avenue, Albany, New York 12206 within thirty days of the date that you receive written notice of the Board's decision. If the appeal is from a final revocation decision, the thirty-day filing period begins when either you or your attorney (if you were represented by one at the Final Hearing) receive a copy of the decision.

3. WHAT QUESTIONS MAY BE RAISED ON APPEAL?

The following questions may be raised on appeal from a minimum period of imprisonment or release proceeding:

a. Did the proceeding and/or determination violate lawful procedure, or was it affected by an error of law, was it arbitrary and capricious, or was it otherwise unlawful?
b. Did the Board member or members making the determination rely on erroneous Information as shown in the record of the proceeding, or was relevant information not available for consideration?
c. Was the determination excessive?

The questions below may be raised on appeal from a parole rescission or final revocation determination, and subject to the limitation that evidentiary rulings will be considered only if a timely objection was made at the hearing:

d. Was the determination supported by a preponderance of the evidence?
e. Questions raised in (a) and (b) above.

4. HOW DOES ONE OBTAIN LEGAL REPRESENTATION IN ORDER TO COMPLETE THE APPEAL?

You may obtain private counsel to assist you in completing your appeal. If you can't afford private counsel, you should contact the closest legal services organization that provides free legal services for indigent inmates, or the County Court in the county where you are imprisoned. You may obtain the name and address of such legal services organizations, or

the appropriate court, by contacting your Parole Officer or if you are in state custody, the Inmate Law Clerk of the law library at your correctional facility.

5. HOW DO I PERFECT AN APPEAL?

After you have filed your notice of appeal, the appeal is perfected by filing an original and two copies of your letter or brief with the Appeals Unit of the Division of Parole in Albany. That document should state the specific questions raised on appeal, and why you believe the decision was incorrect. If you are relying on any documents to support your arguments, those documents should be attached to your letter or brief.

6. IS THERE A TIME LIMIT FOR THE PERFECTING OF AN APPEAL?

Yes. An administrative appeal must be perfected within four months of the date on which the Notice of Appeal has been received by the Appeals Unit. The Appeals Unit will reply in writing and advise you of the final date by which the brief or letter on the appeal must be received. This four-month filing period may be extended where a written request is made prior to the expiration of the time limit. Extensions may be granted at the discretion of the Appeals Unit for good reasons.

7. ONCE AN APPEAL IS PERFECTED, HOW LONG DOES IT NORMALLY TAKE UNTIL IT IS DECIDED?

Perfected appeals are processed in their order of receipt. Once the Appeals Unit receives your letter or brief, it normally takes between 90 and 120 days for the appeal to be reviewed and decided.

8. HOW IS THE APPEAL DECIDED, AND BY WHOM?

The Appeals Unit prepares findings and recommendations to the Parole Board. Three members of the Board of Parole ultimately decide an administrative appeal. Once a final decision is rendered, the Appeals Unit will send you a copy of its findings and recommendations, together with a copy of the Board's final decision. If the Board either reverses or modifies its original decision, the Appeals Unit also instructs appropriate Parole staff concerning what action is to be taken.

9. IF MY APPEAL IS UNSUCCESSFUL, IS THERE ANY OTHER ADMINISTRATIVE RECOURSE AVAILABLE?

No. All relevant issues should be submitted when you file the administrative appeal to make review and determination easier and quicker.

10. WILL I BE PERMITTED ACCESS TO MY CASE FILE PRIOR TO A PAROLE RELEASE INTERVIEW?

Yes. Before you appear before the Board for the purpose of a release consideration interview, your Parole Officer prepares a report that summarizes important parts of your criminal, social and institutional history. A portion of that report, Part I, is routinely made

available to you prior to your appearance before the Board. If you need to see other portions of your case file, you may make a written request to your Facility Parole Officer for access to your record. Access will be granted to any document in your file unless the Board's regulations, 9 NYCRR Section 8005, make it confidential or it is otherwise exempt to disclosure by law (see Public Officers Law Sections 87 and 89).

11. WHAT TYPES OF DOCUMENTS IN MY CASE FILE ARE CONSIDERED TO BE CONFIDENTIAL?

The following documents are confidential and you are not entitled to the following:

- Diagnostic opinions which, if known to you, could lead to serious disruption of your institutional program or supervision;
- Material which would reveal sources of information received under a promise of confidentiality; and
- Any information, which, if disclosed, might result in harm, physical or otherwise, to any person.

Documents that fall into these categories include, but are not limited to:

- The pre-sentence probation report;
- Psychiatric and psychological evaluation reports;
- Reports or portions of reports that contain evaluative opinions or assessments;
- Letters of recommendation and victim impact statements; and
- The Division of Criminal Justice Services Report, which is also known as a DCJS Report or a "rap sheet", which is a part of the Parole record.