

## **RULES proposed in Petition for Parole Rule Change using Statute 227 Submitted to Secretary Wall and Parole Chairman Stensberg on April 6<sup>th</sup> 2015**

The petitioners respectfully ask the Department of Corrections to promulgate changes to PAC 106 that fulfill the intent both of the legislators when statute 304.06 was passed regarding prisoners sentenced before 1999, which we are calling "old Law Prisoners", and the intent of the judges when they sentenced these old law prisoners.

The general ideas of what we feel are necessary are listed below. We will then expand them to include the details that are needed so they fit into the present PAC rule.

Our aim here is to bring in specific, measureable criteria that gives both the parole commission and the old law prisoners goals to aim for. In addition, we feel that opening up the hearing process to allow more testimony both for and against parole will make sure the more subjective criteria will also be considered.

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

- 1) For inmates sentenced for crimes committed prior to December <sup>31st</sup>, 1999, the mandated 25% of their sentence shall be considered sufficient time for punishment. Afterwards, release on parole shall be granted, absent substantive extenuating circumstances, based on conduct and accomplishments while incarcerated.
  
- 2) If parole is not granted, the Parole Board must state in written detail the specific requirements an eligible inmate must meet to be granted parole. This cannot contain a catch-all provision that might allow the decision-maker to base his or her decision on a factor of which the inmate has no control such as "insufficient time for punishment" or "seriousness of the crime". Also, there is no statutory requirement that a prisoner be transitioned to a minimum security Institution that he/she has a work release job or must work outside the prison before release from prison. Yet unwritten rules often require these steps and the chronic lack of space in lower security prisons, lack of jobs near the prisons and paucity of work release jobs leave many parole ready inmates and their families waiting years for the next transition. We hope our new rules make it clear that although these steps are laudable, they are not essential and the lack of availability on the part of the prison system shall not be used to keep the inmate from rejoining his or her community.
  
- 3) Availability of programs and prison overcrowding cannot be a factor in determining release eligibility. The Department of Corrections and Community Supervision shall provide parole eligible inmates access to the programs/facilities necessary to complete the requirements for their parole release within 90 days of denial of parole for reasons of programming. If this is not possible, the prisoner will be allowed to complete the program in the community or the requirement will be waived.
  
- 4) The Parole Board shall have the widest possible view of the prisoner. In addition to allowing victims and victim advocates to testify at the hearing, prisoners shall be able to invite family members and advocates. Also, the prisoners shall be allowed to submit letters of recommendation by WIDOC staff and WTDOC volunteers who have worked with him/her. Staff and community members who are against the release shall be allowed to speak.
  
- 5) The decision whether to release an inmate shall be made based on testimony at the hearing and documents in the prisoner's file only and the prisoner shall be able to view and contest contents of his/her file beforehand

## **THE PROPOSED RULES**

*Here we have expanded and added details in order to fold the new rule proposals into the existing PAC rules*

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

**PAC 1.06(16) (16): A RECOMMENDATION FOR A PAROLE GRANT OR RELEASE TO EXTENDED SUPERVISION ORDER MAY BE MADE AFTER CONSIDERATION OF ALL THE FOLLOWING CRITERIA:**

**(NEW RULES IN BOLD PRINT)**

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

**PAC 1.06(16)(b) Once a prisoner has served the statutorily imposed minimum amount of time necessary to become parole-eligible, the Parole Commission shall recognize that the prisoner has served the "sufficient time for punishment" portion of his/her sentence. ) For inmates sentenced for crimes committed prior to December 31s, 1999, the mandated 25% of their sentence shall be considered sufficient time for punishment, for those with life sentences, it is 13 /2 years. For prisoners sentenced pre-1981, parole eligibility for those serving life sentences started at 11 yrs, 3 months.**

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

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

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

**PAC 1.06(16)(e)(1) P.A.C.1.06 (16)(e) 1.1 Inmate has participated in required programs satisfactorily,  
OR**

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

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

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

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

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

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

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

**PAC 106(16)(i)(1) In addition to permitting victims and victim advocates the opportunity to be heard at each**

hearing, the Parole Commission shall permit interested parties to speak at parole hearings on behalf of the prisoner. These interested parties may consist of family, friends, members of the prisoner's support group, clergy, employers or other advocates as well as prison staff who support release.

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

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

**PAC 106(16)(0)** All documents used in accessing whether to release an inmate shall be made available to the prisoner. **PAC 1.06 (19)** If parole is not granted, the Parole Commissioner must detail in writing, exactly what specific, achievable requirements the prisoner needs to satisfy to become suitable for release. These requirements cannot contain any highly subjective, catch-all provisions that might allow a decision-maker to base his or her decision on immutable factors over which neither the prisoner nor the Parole Commission has any control such as "seriousness of the offense" or "unreasonable risk to the community" without detailing exactly what achievable requirements the prisoner needs to satisfy to become suitable for release. Any such requirements shall then be endorsed for prompt implementation/action in the written decision of the hearing in which they were made.

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

- The prisoner's negative institution conduct based upon a lawful finding of guilt made by Department of Corrections personnel authorized by rule to make such findings;
- The prisoner's refusal to participate in essential programming mandated by the court or
- The negative removal of the prisoner from such essential programming during the current deferment period for a well documented cause.

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

IN addition we add this rule which honors the education effort made by many old law prisoners. A similar provision was in the 1989-90 statutes (304.06(1r) (a) (2):  
**PAC 1.06 (22)** a parole eligible prisoner who came into prison without a high school diploma, GED or HSED, and has attained his HSED or GED shall be paroled unless the prisoner has received a major provable behavior conduct report within the last one year or if his current parole review that indicates his or her release would post a significant risk to the public. Also a prisoner who gained a college degree or completed a vocational course while in prison shall be paroled if there is no provable evidence within the last one year to show that his or her release would pose a significant risk to the public.