



## **Senate Judiciary Committee Hearing on the DOC Reprive Process**

### **Testimony of Ted Johnson, Chairman, Pennsylvania Parole Board**

**May 14, 2020**

Good morning Chairs Baker, Farnese and members of the Senate Judiciary Committee. My name is Ted Johnson. I am the Chairman of the Pennsylvania Parole Board. I am here today to discuss the role of the Parole Board in the Department of Corrections' (DOC) reprieve process as a response to the COVID-19 pandemic.

Frankly, there was - and is - no change in the parole interview/hearing process during this time. For the inmates identified on the reprieve list, DOC checks with the Parole Board to determine there is no parole refusal pending to guarantee there is no erroneous release. DOC and Parole Board staff have worked together to develop a process for parole interviews in the community for reprieved inmates to ensure the parole process is followed.

The Parole Board has worked with DOC in other areas to assist with their efforts to reduce their inmate population during this pandemic.

I thought I would provide a status update on the Parole Board as we await completion of the consolidation effort and the parole process in general.

First, I would be remiss if I didn't thank each of you for taking another step toward filling the vacancies we have on the Parole Board. Your positive recommendation of Khadija Diggs and Jim Fox earlier this morning will go a long way to ensuring a safe, competent and measured parole process in the Commonwealth continues.

On October 19, 2017, a Memorandum of Understanding between DOC and the Parole Board resulted in the combining of the agencies' similar, shared and overlapping resources and functions. Hopefully, with the final passage of Senate Bill 968, the consolidation will be final and operations will continue to smooth out. Thank you all for your efforts on that front.

Under the MOU, both agencies have remained separate from each other. Community supervision of parolees and all other reentry services were combined under a new, centralized chain of command within DOC that everyone in those areas reported to and now follow. The MOU involved reentry tasks,

such as but not limited to inmate/parolee records, inmate/parolee reentry planning, parolee placement and supervision, and parole violation management and return process.

DOC and Board personnel combined within the new organization structure fell within direct supervision of that new structure, but have remained employees of the respective agencies. Employees have continued fulfilling the duties and responsibilities of their respective agencies.

The MOU also consolidated the agencies' business administration offices, internal affairs and investigative offices, and communications/public information offices. Through previous MOUs, the agencies' information technology and the management of data and research were already consolidated.

The Parole Board will remain independent and will continue to exercise its exclusive and independent decision-making role with regard to decisions to parole, re-parole, commit and recommit for violations of parole and to discharge persons sentenced by any court at any time to imprisonment in a correctional institution.

Parole is the release of an inmate from prison prior to his or her sentence's maximum date, but after the minimum sentence date, to continue serving the balance of the sentence under supervision in the community. Probation is a sentence that does not include a period of incarceration; it is served in the community rather than jail. The sentencing judge always makes the decision regarding a person's probation conditions and violations. However, a judge may request the Parole Board to supervise certain county inmates with the judge retaining decision-making power; however, these are known as "special probation" cases.

Parole is also different from a pardon or a commutation. The Governor may grant a pardon or commutation if the Board of Pardons, which is separate from the Parole Board, recommends that one be granted.

The Parole Board has paroling authority over sentences with a maximum date of two or more years that are served in state correctional institutions. A maximum sentence less than two years is a county sentence and county parole.

There is no right to parole under state or federal law. Parole decisions in Pennsylvania are not subject to judicial review unless the prisoner asserts a constitutional challenge to the denial of parole or seeks a writ of mandamus to compel the Parole Board to exercise its discretion. The Parole Board does not have the authority to parole from sentences of life imprisonment or death.

Minimum and maximum sentence dates are calculated by DOC. The minimum sentence date is a parole eligibility date, not a guaranteed release date. Contrary to popular misconception, Pennsylvania inmates are not required to serve 85% of their maximum sentence to be released on parole.

An order by a sentencing judge that grants or denies parole to a person serving a maximum sentence in excess of two years is a nullity. A sentencing judge may make recommendations as to the length of confinement and conditions of parole; however, these orders are advisory and are not binding on the Parole Board.

The Board consists of nine members, appointed by the Governor with the advice and consent of the Senate. The Board makes parole and parole revocation decisions by a majority of the Board or in panels of two persons. Panels consist of one Board Member and one Hearing Examiner or two Board Members. A Hearing Examiner is also a decision maker empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

For voting purposes, the Parole Board uses four groups based on the inmate's current offense:

**Group 1 - Murderers and sex offenders**

The majority of the Board Members must vote YES for an inmate to be paroled. These inmates are interviewed jointly by two Board Members, or one Board Member and one Hearing Examiner. The Hearing Examiner vote does not count for these cases.

**Group 2 - Other violent inmates**

At least two decision makers must vote YES for an inmate to be paroled. These inmates are usually interviewed jointly by a Board Member and a Hearing Examiner.

**Group 3 - Non-violent inmates**

Non-violent offenders need one YES vote from a Hearing Examiner and one YES vote from a Board Member. These inmates are usually interviewed by a Hearing Examiner.

**Group 4 – Recidivism Risk Reduction Incentive (RRRI)**

RRRI-eligible inmates may be paroled if they receive a YES vote from a Hearing Examiner.

In summary, these are the parameters and guidelines under which the Parole Board operates on a daily basis. This process did not change nor was it altered during the DOC's reprieve process.

I thought it best to spell out our role as it is today and will be moving forward as well as basic information on the parole process.

I am pleased to take any questions.