

CHAPTER 309. PAROLE GUIDELINES

Subchap.	Sec.
A. STATE PAROLE GUIDELINES	309.1

Cross References

This chapter cited in 204 Pa. Code § 311.1 (relating to preliminary provisions).

Subchapter A. STATE PAROLE GUIDELINES

- Sec.
- 309.1. Preliminary provisions.
- 309.2. State parole guidelines standards.
- 309.3. Procedures for determining state parole guidelines.
- 309.4a. State Parole Guidelines Matrix (Violent).
- 309.4b. State Parole Guidelines Matrix (Non-Violent).
- 309.5. State Parole Guidelines Form.

Source

The provisions of this Subchapter A added September 30, 2022, effective January 1, 2023, 52 Pa.B. 6144; and corrected October 7, 2022, effective January 1, 2023, 52 Pa.B. 6351, unless otherwise noted.

Cross References

This section cited in 204 Pa. Code § 311.1 (relating to preliminary provisions).

§ 309.1. Preliminary provisions.

(a) *Authorization.*

(1) As authorized by 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole), the Pennsylvania Commission on Sentencing (Commission) shall adopt guidelines that shall be considered by the Pennsylvania Parole Board when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any state correctional institution.

- (i) The guidelines shall do all of the following:
 - (A) Give primary consideration to the protection of the public and to victim safety;
 - (B) Provide for due consideration of victim input;
 - (C) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;
 - (D) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;
 - (E) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and

(F) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

(ii) Notwithstanding any other provision of law, this section shall not remove the discretionary parole authority of the board when exercising its power to parole and reparole.

(b) *Definitions.* For purposes of this chapter:

“*Aggregated Sentence.*” Two or more consecutive sentences that have been combined whereby the aggregate minimum term is the sum of the consecutive minimum terms and the aggregate maximum term is the sum of the consecutive maximum terms.

“*Conviction Offense.*” Offense for which the original sentence was imposed.

“*Court.*” A court of record.

“*Detainer.*” A written order of the court or paroling authority to hold a person in custody in a correctional institution pending further legal action.

“*Hearing Examiner.*” An agent of the Parole Board who is empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

“*Judicial Proceeding.*” A sentencing hearing in which all offenses for which the offender is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“*Misconduct.*” Any violation of Pennsylvania Department of Corrections rules, regulations, or policies as provided in DC-ADM 801, Inmate Discipline Procedures Manual. A detailed list of “criminal or assaultive misconducts” considered in the pre-interview factors is found at DC-ADM 801 Category A Misconducts/Rule Violations (Formal Resolution Only).

“*Non-Violent Offender.*” An offender not currently or previously convicted of a violent offense, for which the State Parole Guidelines Matrix (Non-Violent) applies. Non-violent offenders include but are not limited to those eligible for the following:

“*Rebuttable Parole.*” A statutorily designated non-violent inmate who has been certified by the DOC based on a good conduct record and nonviolent history.

“*Recidivism Risk Reduction Incentive (RRRI).*” A sentence imposed upon a non-violent inmate that can allow the opportunity to reduce the minimum sentence upon completion of recommended programming while maintaining a good conduct record.

“*Short Sentence Parole.*” Offenders sentenced to state incarceration with an aggregate minimum sentence of two years or less or a recidivism risk reduction incentive minimum sentence of two years or less, excluding ineligibility as defined in 61 Pa.C.S. § 6137.1, may be approved by the Board for parole without requiring an interview. If an offender is committed to the Department

of Corrections after the expiration of the minimum sentence, parole may be approved within 30 days after commitment.

“Original Sentence.” The sentence resulting from the original conviction. It is from this sentence the Board paroles the inmate and the parolee serves the remaining time on the street unless recommitted by the Board.

“Panel.” A two-member unit of the Parole Board comprised of either two Board Members or one Board Member and one Hearing Examiner, empowered to make parole release decisions and recommitment decisions.

“Parole.” The conditional release from imprisonment of an inmate from a correctional facility to serve the remainder of his/her unexpired sentence in the community under supervision as long as (s)he satisfactorily complies with all terms and conditions provided in the parole order.

“Parole Preparedness Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole preparedness category is a scale based on 11 factors identified prior to and during the parole interview, intended to measure an inmate’s readiness for parole release. A higher score indicates greater preparedness. One point is assigned for each positive assessment; 0 points for each negative assessment.

“Parole Risk Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole risk category is determined through the Level of Service Inventory-Revised (LSI-R). The LSI-R is a validated risk-screening instrument used by the Department of Corrections. LSI-R assesses an inmate’s general risk based on each of 10 criminogenic domains. Scores range from 0 to 54, with scores of 0 to 19 designated as low risk, scores of 20 to 33 designated as medium risk, and scores of 34 to 54 designated high risk.

“Pennsylvania Parole Board (Board).” An independent executive branch agency comprised of nine members appointed by the Governor and confirmed by the Senate for six-year terms.

“Reasons for deviation.” Common reasons found for deviation from parole guidelines include mental health/medication compliance, negative interest in parole, judicial input, prosecution/public safety input, detainer status, and less than one year until maximum sentence reached. Other reasons may apply. Decision makers are required to provide one or more reasons when deviating from the State Parole Guidelines recommendation.

“Sentencing Guidelines Software Web Application (SGS Web).” A JNET-based application operated by the Commission which includes the modules for Sentencing, Resentencing, and Parole Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“State Parole.” The Pennsylvania Parole Board has paroling authority for offenders sentenced to state incarceration.

“*Underlapping Concurrent Sentence.*” A sentence that is served at the same time as the controlling sentence but has a shorter minimum and/or maximum sentence than the controlling sentence.

“*Violent Offender.*” An offender with a current or previous conviction within ten years as provided below, or offenses otherwise designated by the Pennsylvania Parole Board as violent offenses, for which the State Parole Guidelines Matrix (Violent) applies:

42 Pa.C.S. § 9714(g)

42 Pa.C.S. § 9718.1

42 Pa.C.S. § 9799.14

§ 309.2. State parole guidelines standards.

(a) *Guidelines.* The Board shall consider the State Parole Guidelines when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to a state correctional institution.

(b) *Effective Date.* The State Parole Guidelines apply to all persons sentenced to a state correctional institution and considered for parole on or after January 1, 2023. Amendments to the parole guidelines shall apply to all persons sentenced to a state correctional institution and considered for parole on or after the effective date of the Amendment.

(c) *Reasons.* In every case in which the Board renders a parole decision, the Board shall make as part of the record a statement of the reason or reasons for the decision to grant or refuse parole.

(d) *Deviation from the Guidelines.* In every case in which the Board deviates from the guidelines, the Board shall identify reasons for deviation from the guidelines, and the reasons for the deviation from the guidelines shall be recorded on the State Parole Guidelines Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing (Commission) in the manner described in subsection (e).

(e) *Reporting decision.* Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software application (SGS Web) shall be used at the Board’s direction to prepare and submit State Parole Guidelines Forms and guidelines-required parole decision information for each consideration of parole or reparole. An example of the State Parole Guidelines Form is found at § 309.5 (relating to State Parole Guidelines Form).

(1) The completed State Parole Guidelines Form shall be made a part of the record and the information electronically submitted to the Commission no later than 30 days after the date of the parole decision.

(2) In the case of revocation and recommitment, the completed State Parole Guidelines Form used to report the grant of parole shall be attached to the State Parole Guidelines Form prepared for each consideration of reparole.

§ 309.3. Procedures for determining state parole guidelines.

(a) The State Parole Guidelines consider two categories of factors to determine the parole recommendation: parole risk category and parole preparedness category.

(1) *Parole Risk Category.*

(i) *Risk score.* The LSI-R score is calculated prior to the interview, and the score is used to determine the risk level.

(ii) *Risk Level.* The LSI-R score is divided into three levels:

- (A) High Risk (scores 34 and greater)
- (B) Medium Risk (scores of 20 to 33)
- (C) Low Risk (scores 19 and less)

(2) *Parole Preparedness Category.*

(i) *Pre-Interview Factors.* The pre-interview factors are determined based on a review of Department of Corrections records and scored as a “1” or a “0,” with 1 being successful or positive.

(A) Factors directly related to the offender’s behavior and compliance:

- (I) Enrollment in and/or completion of required programs.
- (II) Misconduct free for the past 12 months.
- (III) Free of criminal or assaultive misconducts for the past 12 months.
- (IV) One or no prior probation or parole revocations.
- (V) Free of alcohol or drug dependence.
- (VI) Compliance with all prescribed medications.

(B) Factor related to the recommendation of the Department of Corrections.

(ii) *Interview Factors.* The interview preparedness factors are based on the professional judgement of the decision maker(s) following a parole interview and scored as a “1” or a “0,” with 1 being positive or successful.

(A) Factors related to progress and commitment to rehabilitation:

- (I) Motivation for success or progress in rehabilitation, treatment, or education.
- (II) Acceptance of responsibility.
- (III) Insight and positive response to address criminal behavior.

(B) Stable release plan (community and/or family support).

(iii) *Preparedness Level.* The preparedness score is the total of the pre-interview and interview factors and is divided into three levels:

- (A) Low preparedness: Score 0 to 7.
- (B) Medium preparedness: Score 8 to 9.
- (C) High preparedness: Score 10 to 11.

(b) The State Parole Guidelines recommendations are based on the combination of the risk level and preparedness level and include consideration of whether the individual is classified as violent or non-violent. These recommendations are

contained in two matrices and found at § 309.4(a) (relating to State Parole Guidelines Matrix (Violent)) and § 309.4(b) (relating to State Parole Guidelines Matrix (Non-Violent)).

(c) *Deviations from the Guidelines.* The State Parole Guidelines are advisory. The Board must consider the guidelines but may exercise discretion in deviating from the recommendation.

(1) Reasons for deviations from the State Parole Guidelines shall be provided on the State Parole Guidelines Form and reported to the Pennsylvania Commission on Sentencing (Commission).

(2) Reasons for deviation from the State Parole Guidelines may include but are not limited to the following:

- (i) Mental health or medication compliance.
- (ii) An inmate's negative interest in parole.
- (iii) Judicial input.
- (iv) Prosecution and public safety input.
- (v) Outstanding detainer.
- (vi) Maximum sentence date is less than one year from interview date.

(3) *Additional information.* The following information shall be provided on the State Parole Guidelines Form and reported to the Commission:

- (i) If parole is granted, condition(s) of parole ordered but not required by statute or recommended by a validated risk assessment case management plan.
- (ii) If parole is denied, reason(s) a review is scheduled more than one year from the date of the parole decision.

(d) *Additional Applications.*

(1) The State Parole Guidelines must be considered in all cases for which the Board is authorized to exercise discretionary parole, including all initial and subsequent parole decisions.

(2) For individuals recommitted as parole violators, the State Parole Guidelines must be considered prior to reparole.

§ 309.4(a). State Parole Guidelines Matrix (Violent).

		<i>Preparedness Category</i>		
		Low	Medium	High
<i>Risk Category</i>	High	Refuse	Refuse	Grant
	Medium	Refuse	Refuse	Grant
	Low	Refuse	Grant	Grant

§ 309.4(b). State Parole Guidelines Matrix (Non-Violent).

		<i>Preparedness Category</i>		
		Low	Medium	High
<i>Risk Category</i>	High	Refuse	Refuse	Grant
	Medium	Refuse	Grant	Grant
	Low	Refuse	Grant	Grant

§ 309.5. State Parole Guidelines Form.

Pennsylvania Commission on Sentencing STATE PAROLE GUIDELINES FORM		Commission ID: _____ Date Risk Score Calculated: _____																																									
Offender Name: _____		State ID Number: _____																																									
Date of Birth: _____		Parole ID Number: _____																																									
Age at Interview: _____		Inmate Number: _____																																									
		Institution: _____																																									
		Type of Case: _____																																									
		Type of Interview: _____																																									
		Majority/Panel/RRRI Min/Min Subseq Reparole/Reparole Subseq Application																																									
Current Offense: _____		Date of Interview: _____																																									
Total Sentence: _____		Violent: _____																																									
Minimum Date: _____		Requires SORNA Registration: _____																																									
Maximum Date: _____		Alcohol or Drug Related: _____																																									
		Firearm/Other Weapon Used: _____																																									
Summary of Risk: Level of Service Inventory-Revised		Overall Rating																																									
LSI-R Score: _____		Overall Risk Category																																									
Summary of Preparedness Factors		Overall Rating																																									
Pre-Interview		Overall Preparedness Category:																																									
Required programs completed or in progress? -		Out of 11 Factors																																									
Free of misconducts for the past year? -		0 - 7 Low																																									
Free of criminal or assaultive misconducts for the past year? -		8 - 9 Medium																																									
Free of prior probation/parole revocations? -		10 - 11 High																																									
Free of alcohol or drug dependence? -																																											
Compliant with all prescribed medications? -																																											
Positive recommendation from DOC? -																																											
Interview																																											
Expressed motivation for success or exhibited progress in rehabilitation, treatment, or education -																																											
Expressed acceptance of responsibility -																																											
Expressed insight and positive response to criminal behavior? -																																											
Stable release plan (community and/or family support)? -		Total Score = _____																																									
State Parole Guidelines Matrix (Violent)		State Parole Guidelines Matrix (Non-Violent)																																									
<table border="1" style="margin: auto;"> <tr><td colspan="4" style="text-align: center;">Preparedness Category</td></tr> <tr><td></td><td style="text-align: center;">Low</td><td style="text-align: center;">Medium</td><td style="text-align: center;">High</td></tr> <tr><td style="text-align: center;">High</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Medium</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Low</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td><td style="text-align: center;">Grant</td></tr> </table>		Preparedness Category					Low	Medium	High	High	Refuse	Refuse	Grant	Medium	Refuse	Refuse	Grant	Low	Refuse	Grant	Grant	<table border="1" style="margin: auto;"> <tr><td colspan="4" style="text-align: center;">Preparedness Category</td></tr> <tr><td></td><td style="text-align: center;">Low</td><td style="text-align: center;">Medium</td><td style="text-align: center;">High</td></tr> <tr><td style="text-align: center;">High</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Medium</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Low</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td><td style="text-align: center;">Grant</td></tr> </table>		Preparedness Category					Low	Medium	High	High	Refuse	Refuse	Grant	Medium	Refuse	Grant	Grant	Low	Refuse	Grant	Grant
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Recommend Grant _____ Recommend Refusal _____		Recommend Grant _____ Recommend Refusal _____																																									
Parole Decision																																											
Grant parole _____ Refuse Parole _____																																											
Does this decision deviate from the State Parole Guidelines recommendation? Yes No																																											
Reasons for Deviation from the State Parole Guidelines																																											
Mental Health / Medication Compliance _____																																											
Negative Interest in Parole _____																																											
Judicial Input _____																																											
Prosecution/Public Safety Input _____																																											
Detainer Status _____																																											
Approaching Maximum Sentence (less than 1 year) _____																																											
Other reason(s): _____																																											

Additional Information																																											
If parole is <u>granted</u> , list condition(s) not required by statute or recommended by a validated risk assessment case management plan:																																											

If parole is <u>denied</u> , provide reason(s) for a scheduled review greater than one year from the date of this parole decision:																																											

Cross References

This section cited in 204 Pa. Code § 311.2 (relating to parole violator recommitment range standards).

[Next page is 311-1.]