

## **GENERAL DISTRIBUTION**

**WEST VIRGINIA  
DIVISION OF CORRECTIONS  
& REHABILITATION**

**NUMBER: 454.11**

**EFFECTIVE DATE: 21 February 2024**

**SUBJECT: NONVIOLENT OFFENSE  
PAROLE PROGRAM**

# **POLICY DIRECTIVE**

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### **PURPOSE:**

To provide policy and procedure for a Nonviolent Offense Parole Program for any inmate of a state correctional facility in which an inmate may be paroled without action of the Parole Board based upon objective standards in accordance with WV Code 62-12-13c.

### **REFERENCE:**

WV Code §§62-12-13; 62-12-13c; and 62-12-19.

### **RESPONSIBILITY:**

No additional written instructions on this subject are required.

### **CANCELLATION:**

Any previous written instruction on the subject including DCR Policy Directive 454.11, dated 01 June 2023.

### **APPLICABILITY:**

All adult facilities and parole services within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution and is to be made available for inmate/offender review upon the effective date.

### **DEFINITIONS:**

**Case Management Plan:** A plan developed by a Case Supervisor designed to provide program recommendations that most effectively address an inmate's criminogenic risks and needs based upon the use of the LS/CMI; identifying the risk factors of the inmate that have been linked to criminal conduct through research.

**Case Supervisor:** The DCR staff member assigned by the Superintendent or Unit Manager to manage the caseload of a particular inmate or group of inmates (e.g., Corrections Case Manager, Reentry Coordinator, Corrections Program Specialist, or Correctional Counselor).

**LS/CMI:** The Level of Service/Case Management Inventory (LS/CMI) is a fully functioning case management tool and assessment that measures the risk and need factors of an offender.

**POLICY:**

- I. Any inmate of a state correctional facility is eligible for parole under the Nonviolent Offense Parole Program if:
  - A. He or she has served at least the minimum term of his or her indeterminate sentence or one fourth (1/4) of his or her definite term sentence;
  - B. He or she is not serving a sentence for a crime of violence against a person, a crime of violence against an animal, or felony for a controlled substance offense which involves actual or threatened violence to a person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;
  - C. He or she has successfully completed an individualized rehabilitation treatment program as determined by the DCR;
    1. An individualized rehabilitation treatment program is based on criminogenic risks and needs and includes substance abuse and cognitive behavioral programs.
    2. These programs include Residential Substance Abuse Treatment (RSAT); Cognitive Behavioral Intervention for Substance Abuse (CBISA); SMART Recovery InsideOut Program; Thinking for a Change (T4C); and The Courage to Change Series.
  - D. He or she is not in punitive segregation or administrative segregation as a result of disciplinary action. Such inmate, who meets all other criteria for release on the Nonviolent Offense Parole Program, shall become eligible for release the first full month following the month in which he or she is released from segregation.
  - E. He or she has prepared and submitted a parole release plan setting forth proposed plans for his or her place of residence, employment and, if appropriate, his or her plans regarding education and post-release counseling and treatment which has been approved by the DCR.
- II. Any person released under the Nonviolent Offense Parole Program shall be subject to all conditions of release and sanctions for violations applicable to persons released on parole by the Parole Board, and all parole revocations of persons granted parole pursuant to this

Policy shall be heard by the Parole Board. An inmate previously granted parole under the Nonviolent Offense Parole Program whose parole is revoked, will not be eligible for subsequent release under this program during the same incarceration.

- III. The Nonviolent Offense Parole Program authorized by WV Code §62-12-13C requires no action by the Parole Board as to the release decision if the inmate qualifies for the program and has successfully completed his or her rehabilitation treatment program. If an inmate fails to successfully complete his or her rehabilitation treatment program, his or her parole shall be determined by the Parole Board.
- IV. An inmate who has been denied parole by the Parole Board and who thereafter successfully completes his or her rehabilitation treatment program prior to his or her next parole review shall be eligible for release under the Nonviolent Offense Parole Program. The inmate's release will be within a reasonable time after he or she successfully completes such program as determined by the DCR, provided the inmate remains qualified for release under the Nonviolent Offense Parole Program.
- V. Upon receipt of the court order sentencing an inmate for an offense(s) which may be eligible for the Nonviolent Offense Parole Program, the DCR Director of Records & Interstate Compact shall ensure appropriate notations are made in the Offender Information System (OIS).
- VI. Within thirty (30) days of the inmate's time sheet being entered into OIS, the Case Supervisor shall coordinate with the DCR Classification/Movement Office to review the circumstances of the offense(s) to further determine the inmate's eligibility.
  - A. In order to review the circumstances of the offense(s), the Case Supervisor shall gather Pre-Sentence Investigation reports.
  - B. If a Pre-Sentence Investigation report is not available, the Case Supervisor will request a Post-Sentence Investigation report from the appropriate Parole Services staff.
- VII. Upon determination that an inmate's offense(s) meets eligibility for the Nonviolent Offense Parole Program, the Case Supervisor shall notify the appropriate Reentry Coordinator.
  - A. The Case Supervisor shall ensure an LS/CMI is completed on the inmate within fifteen (15) calendar days of this determination. A new LS/CMI will be completed for any LS/CMI older than six (6) months.
  - B. Within fifteen (15) calendar days of completion of the LS/CMI the Case Supervisor shall meet with the inmate to develop a Case Management Plan based on the inmate's LS/CMI, available programs in the facility, and other available information.
  - C. Programs based on criminogenic needs, such as substance abuse and cognitive behavioral programs, must be completed prior to release on nonviolent offense parole supervision.

- D. Inmates who have already begun their recommended programming in the jails required for the Nonviolent Offense Parole Program should remain in the jail in order to complete. If an inmate is moved to another jail, the Reentry Coordinator must notify the Regional Reentry Coordinator of the inmate's eligibility for the program and his/her current progress.
- VIII. When an inmate who is qualified for the Nonviolent Offense Parole Program successfully completes the substance abuse and cognitive behavioral programs required on his or her Case Management Plan, the Case Supervisor will complete a Certification of Completion of Rehabilitation Treatment Program (**Attachment #1**) and submit to the appropriate Reentry Coordinator for review and approval.
- IX. Parole release plans for each inmate who qualifies for the Nonviolent Offense Parole Program and has completed his/her rehabilitation treatment program should be generated in OIS.
  - A. Parole release plans will be submitted no earlier than one hundred and twenty (120) calendar days prior to the estimated completion of the inmate's required substance abuse and cognitive behavioral programs and no later than thirty (30) calendar days of completion of the inmate's required substance abuse and cognitive behavioral programs.
  - B. Parole release plans will be investigated in accordance with DCR Policy Directive 454.01.
  - C. Inmates must have an approved parole release plan prior to release.
- X. Upon approval of the parole release plan and completion of required substance abuse and cognitive behavioral programs, the Reentry Coordinator will upload the completed Certification of Completion of Rehabilitation Plan (**Attachment #1**) to the appropriate file in OIS Document Management and forward a copy to the Commissioner's designee in Central Office to complete the Order of Release on Nonviolent Parole (**Attachment #2**). The signed Order of Release will be sent to the appropriate Reentry Coordinator and Case Supervisor for out-processing to parole supervision. The original shall be placed in the inmate's legal/booking file and uploaded to the appropriate file in OIS.
  - A. All inmates, including those whose parole has previously been revoked by the Parole Board, shall not be released prior to their next parole eligibility date (PED). Inmates whose parole hearing dates are scheduled early as part of the Accelerated Parole Program must wait until their original parole date to be released under the Nonviolent Offense Parole Program. **NOTE: The Order of Release on Nonviolent Offense Parole (Attachment #2) designates the earliest date an inmate may be released.**

- B. If parole is granted to an inmate who is subject to a detainer, he or she shall be released to the detainer. He or she shall not be released to parole supervision without the express written consent of the authorities who filed the detainer.
- C. Inmates who have not completed Pre-Parole Orientation class within the previous twelve (12) months will complete the orientation prior to release.
- D. The Reentry Coordinator/designee will follow the guidelines for out-processing to parole supervision as contained in DCR Policy Directive 454.12.
- E. Inmates will be released in accordance with all guidelines as contained in DCR Policy Directive 457.02 and can be released any day of the week including non-business days.
- F. Upon the inmate's release, the Reentry Coordinator or designated staff will release the inmate in OIS according to established procedures and ensure the entry of the maximum parole discharge date.

- XI. Parole Services will supervise offenders in accordance with DCR Policy Directive 700.00.
- XII. Violations of the term(s) of supervision may result in graduated sanctions.

- A. If reasonable cause is found to exist that an offender has violated term(s) of his/her release; except in the case of absconding supervision, new criminal conduct other than minor traffic violations or simple possession of a controlled substance or a violation of a special condition of supervision designed to protect the public or the victim;
- B. After consultation with and written approval by the Director of Parole Services;
  - 1. for the first offense, require the offender to serve a period of confinement up to sixty (60) days;
  - 2. or for the second violation, require the offender to serve a period of confinement up to one hundred twenty (120) days.
- C. If an inmate on supervision fails to abide by the rules and regulations even after the afforded graduated sanctions, or if the offender has served both a sixty (60) day and one hundred twenty (120) day incarceration sanction and commits a new violation, the supervising Parole Officer will seek revocation.
- D. The following procedures will be followed when offenders receive a sanction to either waive or request a hearing by the Hearing Examiner:
  - 1. Written notice to the offender listing the specific condition(s) of release the offender is alleged to have violated, the date(s) the alleged violation(s) occurred, the nature of the violation(s), the date the offender received the sanction or was

incarcerated as a sanction, and the date the offender was served with the written notice.

2. The written notice provided to the offender shall also be provided to the Hearing Examiner designated by the Commissioner to conduct the sanction hearings.
3. The offender shall have the right to request or waive the sanction hearing. This shall be documented by the Parole Officer or Hearing Examiner.
4. If the inmate waives the sanction hearing, no further action is needed. The Parole Officer/Hearing Officer will send a copy of the signed waiver to the Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff, and Central Office Records for the offender's file.
5. If the offender requests a sanction hearing, the Hearing Examiner will conduct the sanction hearing within the first forty-five (45) days of the sanction to determine if there is probable cause to believe the offender violated the conditions of his/her release and either uphold the sanction imposed or modify the sanction imposed by the Parole Officer.
6. Written notification of this decision will be provided to the offender, Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff and Central Office Records for the offender's file.

**XIII. The revocation process shall, as a minimum, have the following components:**

- A. Written notice to the offender listing the specific condition(s) of release the offender is alleged to have violated, the date(s) the alleged violation(s) occurred, the nature of the violations(s), the date the offender was placed in jail pursuant to the revocation, and the date the offender was served with the written notice.
- B. The written notice provided to the offender shall also be provided to the Hearing Examiner designated by the Commissioner to conduct the preliminary/probable cause hearings.
  1. The inmate shall have the right to request or waive the preliminary/probable cause hearing; such waiver shall be signed by the inmate or, if the inmate refuses to sign, documented by the Parole Officer.
    - a. If the inmate waives the preliminary/probable cause hearing the Parole Officer shall provide written notification to the inmate, Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff, and the Hearing Examiner designated to conduct final revocation hearings.
    - b. If the inmate requests a preliminary/probable cause hearing the Parole Officer shall provide written notification to the inmate, Assistant Commissioner of the

Bureau of Community Corrections, Central Office Parole Services staff, and the Hearing Examiner designated to conduct final revocation hearings. The Hearing Examiner will then cause a hearing to be scheduled to review the allegations within forty-five (45) days to determine if there is probable cause to believe that the inmate violated the conditions of his/her release.

2. The Hearing Examiner designated by the Commissioner to conduct the final revocation hearings shall ensure that, at a minimum, the following elements are afforded.
  - a. The final revocation hearing shall be held within thirty (30) days of the date of the preliminary/probable cause hearing, or the waiver of such hearing, excluding continuances.
  - b. The inmate shall have the right to be represented by an attorney.
  - c. The inmate and the inmate's attorney (if any) shall be provided with written notice of the final revocation hearing a minimum of five (5) days prior to the hearing.
  - d. The inmate shall have the right to waive the final revocation hearing.
  - e. The inmate or their attorney shall have the right to call witnesses and offer testimony on their behalf.
  - f. The inmate or their attorney shall have the right to cross-examine witnesses against them.
  - g. The inmate or their attorney shall have the right to request a continuance, which shall be the Hearing Examiner's discretion to grant or deny.
  - h. The Hearing Examiner shall consider the facts presented and determine if there is a preponderance of evidence to indicate that the alleged violations occurred. If a preponderance of evidence supporting the allegations is found, the Hearing Examiner shall determine, based on mitigating, extenuating, or aggravating circumstances, if the inmate should be returned to supervision or if the inmate should be re-incarcerated in a Division of Corrections & Rehabilitation facility.
  - i. The Hearing Examiner shall formulate a detailed, written report of his/her findings and recommendations, and provide the report to the Commissioner of the Division of Corrections & Rehabilitation or designee for final review and approval.
  - j. The Commissioner/designee shall approve or disapprove the recommendations of the Hearing Examiner.

- k. Written notice of the Commissioner's/designee's decision shall be provided to the inmate, the inmate's attorney (if any), the Hearing Examiner, Central Office Parole Services staff, and the Director of Records & Interstate Compact.
- l. If the inmate is to be returned to supervision, the supervising Parole Officer shall ensure the inmate is released from jail and placed under supervision.
- m. If the inmate is to be re-incarcerated in a Division of Corrections & Rehabilitation facility, the inmate's minimum discharge date will be recalculated, and a new timesheet generated and distributed, as appropriate.

XIV. The DCR Director of Records & Interstate Compact/designee shall provide an Official Certificate of Discharge to the supervising parole officer prior to the offender's discharge date and ensure the appropriate field in OIS is marked to indicate the offender has been discharged from supervision.

XV. An inmate may waive his participation and release under this program by completing a Nonviolent Offense Parole Program Waiver (**Attachment #3**). Inmates wishing to withdraw such waiver may do so in writing at any time. Completed waivers will be uploaded to the appropriate file in OIS Document Management.

**ATTACHMENT(S):**

- #1 Certification of Completion of Rehabilitation Treatment Program
- #2 Order of Release on Nonviolent Parole
- #3 Nonviolent Offense Parole Program Waiver

APPROVED SIGNATURE:

William K. Marshall III

William K. Marshall III, Commissioner

Feb 21, 2024

Date

WEST VIRGINIA DIVISION OF CORRECTIONS & REHABILITATION

## Nonviolent Offense Parole Program

## Certification of Completion of Rehabilitation Treatment Program

Inmate's Name & OID#:

Last	First	Middle	OID#
Current Facility:	Inmate's Original PED: _____		
Inmate's Next Parole Hearing Date:	Inmate's MDD: _____ minimum discharge date		
Required Substance Abuse & Cognitive Behavioral Programs:	Completion Date:		

The inmate has completed all required programming on the attached Case Management Plan and is ready to be processed for release under the Nonviolent Offenders Parole Program.

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Printed Name of Case Supervisor

**Signature of Case Supervisor** \_\_\_\_\_ **Date** \_\_\_\_\_

I have reviewed and approved the above information and concur that the inmate has now completed the requirements to be released under the Nonviolent Offenders Parole Program.

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**Reentry Coordinator Signature** **Date Submitted**



## STATE OF WEST VIRGINIA

### DIVISION OF CORRECTIONS AND REHABILITATION CHARLESTON, WEST VIRGINIA

#### ORDER OF RELEASE ON NONVIOLENT OFFENSE PAROLE

KNOW ALL MEN BY THESE PRESENTS: That on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_, OID # \_\_\_\_\_, a prisoner of the State of West Virginia, confined at \_\_\_\_\_, as authorized by WV State Code §62-12-13c shall be released on or after:

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\_\_\_\_\_ intends to lead an orderly and law abiding life as a worthwhile and useful citizen, and that the release of the above stated person will be compatible with the best interests and welfare of society. The Commissioner of the Division of Corrections and Rehabilitation doth hereby order that the said person be released and is hereby granted a release on nonviolent offense parole in accordance with the laws of West Virginia and subject to the rules and regulations prescribed by the Commissioner of the Division of Corrections and Rehabilitation regarding release from the institution, and subject to the rules and regulations governing supervision made in pursuance thereof.

Done this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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\_\_\_\_\_  
Commissioner

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\_\_\_\_\_  
Director of Records & Interstate Compact/Designee

**WEST VIRGINIA DIVISION OF CORRECTIONS & REHABILITATION**

**Nonviolent Offense Parole Program Waiver**

I, \_\_\_\_\_, OID# \_\_\_\_\_, have been advised by Division of Corrections & Rehabilitation staff that I qualify for participation in the Nonviolent Offense Parole Program and upon completion of my Rehabilitation Treatment Program for release in \_\_\_\_\_. In signing this waiver, I am voluntarily waiving my participation and release under this program.

This is a voluntary statement on my part, and I fully understand what my rights are. I have also been advised that I can withdraw this waiver at any time.

In waiving this right, I HAVE NOT been threatened, coerced, or promised any type of consideration for declining this opportunity.

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Inmate's Signature

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Date Signed

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Witnessing Staff Signature

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Date Signed