SJ 3: Study of the Board of Pardons and Parole

Background Paper: Liberty Interest in Parole Release

Executive Summary

- The Board of Pardons was created in 1889 and in 1907 the Legislature provided for the parole of prisoners.

- 1955 the Legislature revised the provisions concerning parole eligibility. The Legislature required that the Board "shall" parole any inmate, except a person under the death sentence, when in the Board's opinion there was reasonable probability that the prisoner could be released without detriment to himself or to the community.

- In 1975 the Legislature amended the parole eligibility statutes increasing the amount of time served to parole consideration on a life sentence from 25 year to 30 years, less good time. A "persistent felony offender" designation was created.

- Two years later the 1977 Legislature repealed the persistent felony statute and created a new designation called non-dangerous or dangerous felony offender.

- In 1987, The United States Supreme Court ultimately ruled in Allen v. BOP, that as in Greenholtz, the release decision in Montana is subjective and predictive and the Board's discretion is very broad, nevertheless, the Montana statute, like the Nebraska statute, uses mandatory language ("shall") to create a presumption that parole release will be granted when the designated findings are made.

- Following the decision in Allen, the Board amended a number of procedures in order to comply with the Court's opinion. The majority of these changes remain in effect today.

- In 1989 the Legislature amended 46-23-201, MCA, removing the mandatory language "shall" parole and replacing it with the non-mandatory language "may" parole, effectively removing any expectancy of release and firmly establishing parole as a privilege and not a right.

- **1991 Legislature authorized District Court Judges to sentence an offender to the correctional authority for placement in an appropriate correctional institution OR correctional program (DOC commitments).**

- As a result of" truth in sentencing" considerations the 1995 Legislature: eliminated good time for parole eligibility purposes; eliminated good time for discharge purpose effective (January 1, 1997); eliminated dangerous/non-dangerous designations; eliminated all early parole consideration provisions;

- **Removing the mandatory language in the parole statute had no adverse consequences on the corrections system but rather strengthened the systems' ability to provide for public safety.**

- **In 2001 Board receives National Accreditation from American Corrections Association!**

- 2003 Legislature repealed section 46-23-107, MCA, which specified that the orders of the board are not reviewable. **The Board's decisions and activities are subject to judicial review**. Judicial Review is a method of challenging decisions made by a public body in a Court, whereby the Court is requested to review whether the action or decision of a public body is lawful. It is not an appeal on the merits of a decision, but a review of the decision making process itself.

- On average, over the last 15 years the **Board has granted parole to 56% of offenders appearing initially or for reconsideration.**

  - In a partnership with the Department of Corrections and various private non-profit entities, **the Board of Pardons and Parole has released over 8000 felony offenders to supervision** over the last 15 years and nearly 3000 offenders have successfully completed parole.

  - On June 30, 2012, 10,214 (80%) of Montana's felony offenders were in community corrections programs and 2,545 were in prison (20%). **62% of the community corrections placements were on Probation and Parole.**

- Very clear that the inmates denied parole and placed on extended review by the Board are **serious violent, sex and/or repeat offenders who would represent a risk to the community if released early.**

- Note that nearly 50% of parole violators do not go to prison but are placed in community corrections programs such as pre-release, Nexus, Watch, Elkhorn, Passages and Connections Corrections. Male parole violators are typically re-evaluated at the Sanction Treatment Assessment Revocation and Transition (START) unit located near Anaconda (overview of START enclosed) and female violators at Passages in Billings.

- District Court Judge Spalding's said it best when commenting regarding SJ 3; "this sounds like a solution looking for a problem".

SJ 3: Study of the Board of Pardons and Parole

Background Paper: Liberty Interest in Parole Release

Prepared for Representative Margaret McDonald by Craig Thomas, Special Projects Coordinator, Community Counseling and Correctional Services, Executive Director Board of Pardons and Parole 1991-2011

April 2014

Background

As part of its study of the Montana Board of Pardons and Parole (Board), the Law and Justice Interim Committee Chair expressed interest in the issue of "liberty interest" in the parole release decision making process.

History of Board Statutory Parole Eligibility Provisions

The Board of Pardons was created in 1889 and in 1907 the Legislature provided for the parole of prisoners subject to the following restrictions:

- An inmate could not be paroled if he had previously been convicted of a felony.
- An inmate serving a time sentence could not be paroled until he had served at least one-half of his full term, less good time, except an inmate serving a time sentence could be paroled after serving a maximum of 12 ½ years.
- An inmate serving a life sentence could not be paroled until he had served 25 years, less good time.
- Parole had to receive unanimous approval of the Board Members.

In 1955 the Legislature revised the provisions concerning parole eligibility. The Legislature required that the Board "**shall**" parole any inmate, except a person under the death sentence, when in the Board's opinion there was reasonable probability that the prisoner could be released without detriment to himself or to the community subject to the following restrictions:

- No inmate serving a time sentence could be paroled until he had served at least one-quarter of his full term, less good time, however an inmate serving a time sentence may be paroled after serving a maximum of 12 ½ years.
- No inmate serving a life sentence could be paroled until he has served 25 years, less good time.

In 1975 the Legislature amended the parole eligibility statutes increasing the amount of time served to parole consideration on a life sentence from 25 year to 30 years, less good time. A "***persistent felony offender***" designation was created authorizing a District Judges to impose it if the following conditions were present at sentencing:

- The offender had been previously convicted of a felony and the present offense was a second felony committed on a different occasions that the first.
- Less than five years had elapsed between the commission of the present offense and either the previous felony conviction or the offenders release on parole or otherwise from prison.
- The offender was more than 18 years old when he committed the present offense.

A *persistent felony offender* could not be paroled until:

- He had served at least one-third of his full term, less good time, or until he had served 17 ½ years, whichever occurred first.
- An inmate <u>not designated</u> as a *persistent felony offender* was parole eligible after serving one-quarter of his term , less good time, or after serving a maximum of 12 ½ years on a time sentence..

Two years later the 1977 Legislature repealed the persistent felony statute and created a new designation called **non-*dangerous or dangerous felony offender.*** This new law affected parole eligibility calculations only and also authorized District Judges to sentence felony offender to imprisonment with no possibility of parole or participation in the supervised released program. Additionally, the Legislature further amended the statue to providing that all offenders serving a time sentence "**shall"** be considered for parole after serving 17 ½ years.

- Prisoners designated as *non-dangerous* were required to serve one-quarter of their term, less good time.
- Prisoners designated *dangerous* were required to serve one-half of their term, less good time.

The Legislature revised the parole statutes in 1983 and 1985 creating various forms of "early parole consideration" if the state prisons were over designed capacity (repealed in 1995).

In 1989 the Legislature amended 46-23-201, MCA, removing the mandatory language "**shall"** parole and replacing it with the non-mandatory language "**may**" parole, effectively removing any expectancy of release and firmly establishing parole as a privilege and not a right.

1991 Legislature authorized District Court Judges to **sentence an offender to the correctional authority** for placement in an appropriate correctional institution OR correctional program (DOC commitments). Montana is very unique regarding this authority. Convicted male felony offenders are assessed at the Missoula Assessment Sanction Center, and female offenders at Passages in Billings. Most DOC commitments are not sent to prison but are placed in a community corrections program.

- **As June 30, 2012, 80% of felony offenders were in a community corrections programs (10,214) offenders and 20% in prison (2,545). Of the 10, 214 offenders in community corrections, 62% (7,915) were on Probation or Parole!**

As a result of" truth in sentencing" considerations the 1995 Legislature:

- Eliminated good time for parole eligibility purposes;
- eliminated good time for discharge purpose effective (January 1, 1997);
- eliminated dangerous/non-dangerous designations;
- eliminated all early parole consideration provisions;
- eliminated 17 ½ year maximum time served to parole provision and
- eliminated the dangerous and non-dangerous designations.

Liberty Interest in the Montana Parole System

In Greenholtz v. Nebraska Penal Inmates, 442 U.S. 1, the United States Supreme Court held that the mandatory language "shall" and structure of the Nebraska parole release statute created an "expectancy of release", a liberty interest entitled to protection under the Due Process Clause of the United States Constitution Montana Supreme Court analyzed the process due to an inmate in parole proceedings in Montana and concluded that parole involved *"the mere anticipation of freedom—freedom to which the lawfully-convicted inmate is otherwise not entitled."* The court noted that due process is satisfied under U.S. Supreme Court standards when an inmate seeking parole is provided with an opportunity to be present, to be heard, and provided a written statement explaining why parole was denied. It is well established that due process is flexible and calls for such protections as the particular situation demands and minimize the risk of erroneous decisions. When a prisoner has a liberty interest in parole release, a parole hearing is not subject to all the due process protections of an adversary proceeding and does not require repeated adversary hearings. The Montana statute prior to March 20, 1989, provided that an inmate eligible for parole consideration "shall" be released when there is a reasonable probability that no detriment will result to him or the community, and specified that parole shall be ordered for the best interests of society, and when the Board believes that the prisoner is able and willing to assume the obligations of a law-abiding citizen.

After being denied parole, Montana prisoners George Allen and Dale Jacobsen, on their own behalf and on behalf of all similarly situated prisoners, filed a civil rights action against the Montana Board of Pardons. Allen and Jacobsen alleged that the Board denied them due process by falling to apply the statutory mandated criteria in determining parole eligibility, and failing to adequately explain its reasons for parole denials.

In 1987, The United States Supreme Court ultimately ruled that as in *Greenholtz*, the release decision in Montana is subjective and predictive and the Board's discretion is very broad, nevertheless, the Montana statute, like the Nebraska statute, uses mandatory language ("shall") to **create a presumption that parole release will be granted** when the designated findings are made. They further noted that legislative intent to limit the Board's discretion is further demonstrated by its replacement of an *earlier statute* Mont.Rev.Code 9573 (1907) which allowed absolute discretion. "The Court noted that the Legislature authorized judicial review of parole-release decisions in MCA 46-23-107 (1985), thus providing further indication of a legislative intent to cabin the discretion of the Board". However, I must

point out that the code 94-9832 (1955), has mandatory language throughout the statute including; parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or pardon; a prisoner shall be placed on parole only when the Board believes that he is able and willing to fulfil the obligations of a law abiding citizen.

- As noted previously, the 1989 Legislature amended 46-23-201, MCA, removing the mandatory language "**shall parole**" substituting it with the non-mandatory language "**may parole**", effectively removing any expectancy of release and **firmly establishing parole as a privilege and not a right.**

What impact did the removal of the mandatory language have on the parole release process in Montana?

Following the decision in *Allen*, the Board amended a number of procedures in order to comply with the Court's opinion. The majority of these changes remain in effect today. It must be noted that the U.S. Supreme Court stated in *Allen* that the statute outlined three criteria for parole that must be considered: The ability to fulfill the obligations of a law abiding citizen if released; all circumstances surrounding the offense; and the impact on society and the victim. The court was clear in its opinion that no guidelines dictate which evidence must be given the greater weight; *"this discretion is left to the judgment and discretion of the board"*. Following the decision in *Allen*, the parole grant, parole denial and parole revocation case disposition sheets were significantly amended. Denial dispositions clearly indicated the reason(s) for parole denial and under which statutory provision the reason(s) corresponded. (See attached dispositions). The amended dispositions have been utilized since this time for **all parole cases** (see attached samples). Parole dispositions clearly outline any conditions that are prerequisites to release and the conditions that must be followed while under parole supervision in the community. Inmates that committed crimes prior to March 20, 1989, denied parole and placed on review status, have the option of personally appearing before the Board and are allowed to present testimony and evidence demonstrating why they feel they are reasonable candidates for parole thereby providing due process. A case disposition is issued explaining in detail why parole was denied and when the inmate will reappear or be scheduled for a review.

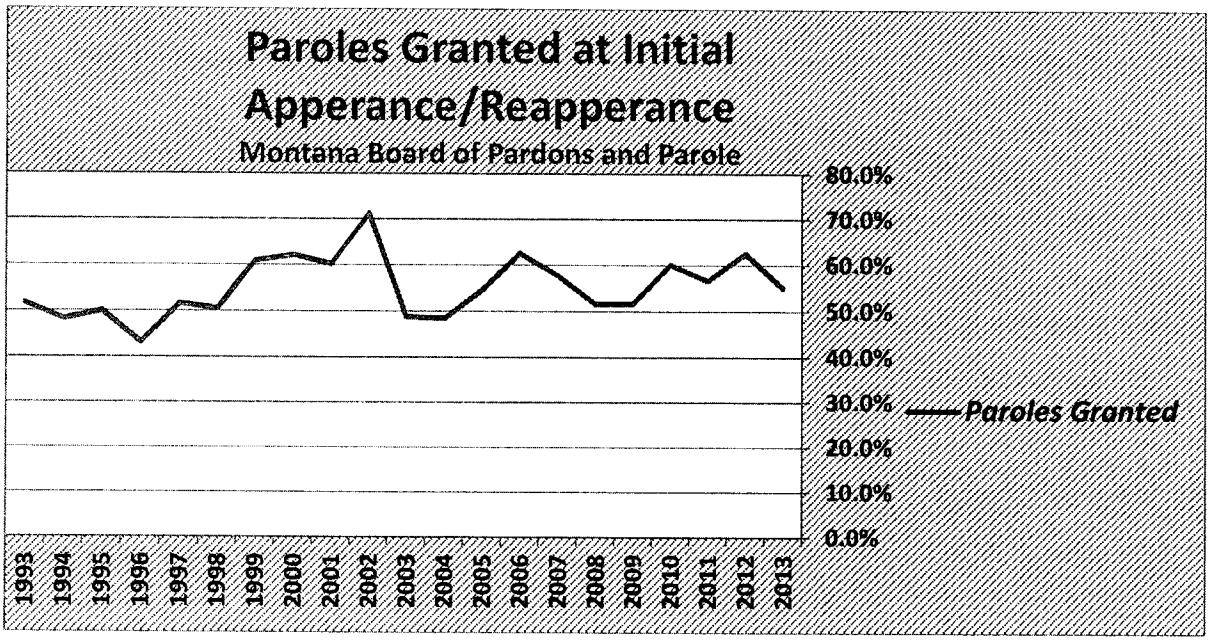
- Inmates that committed crimes after March 20, 1989, denied parole and placed on review status, do not appear before the Board but are allowed to present written information and evidence demonstrating why they feel they are reasonable candidates for parole. If parole is denied, a case disposition is issued explaining in detail why parole was denied and when the inmate will reappear or be scheduled for a review.
- All inmates appearing before the Board for their initial consideration personally appear before the Board and are allowed to present testimony and evidence demonstrating why they feel they are reasonable candidates for parole. If parole is denied, a case disposition is issued explaining in detail why parole was denied and when the inmate will reappear or be scheduled for a review.

In my opinion, removing the mandatory language in the parole statute had no adverse consequences on the corrections system but rather strengthened the systems' ability to provide for public safety and improve inmate rehabilitation efforts by not releasing inmates that have clearly demonstrated that they are a detriment to themselves and/or the community while still providing inmates with the a system that minimizes the chances for erroneous decisions. The Board's legislative mandated parole release criteria has basically remained consistent since the parole system was created over a century ago and did not change as a result of *Allen* or the removal of mandatory language.

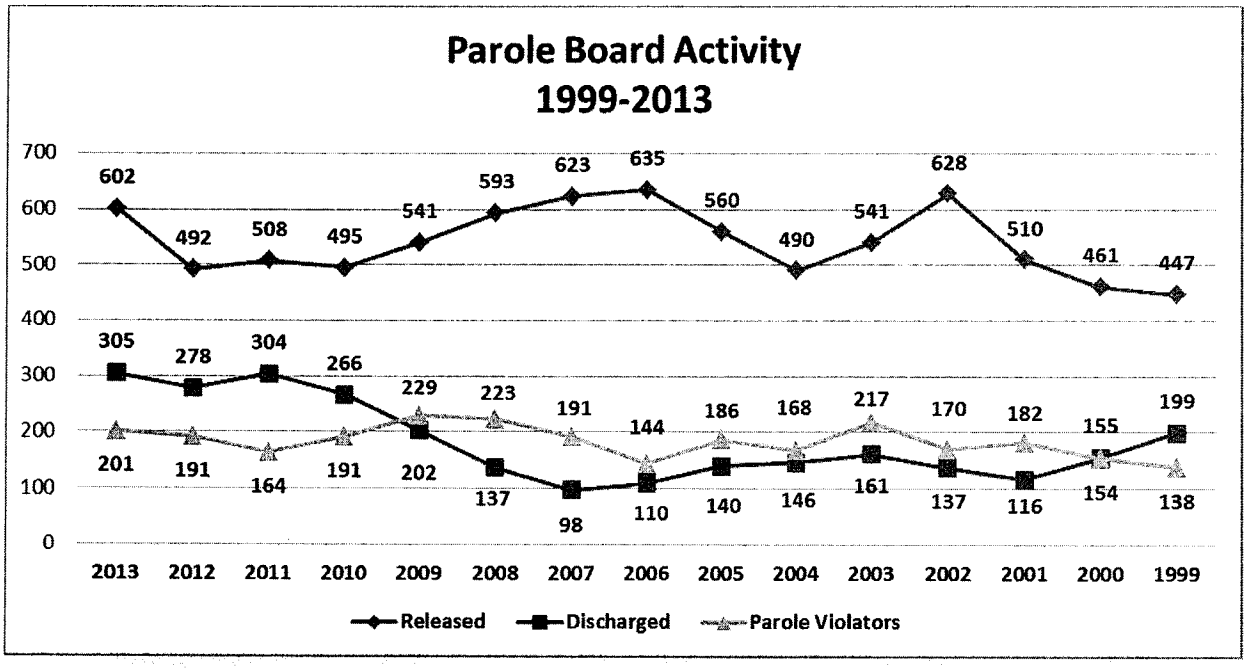
I also point out that the 2003 Legislature repealed section 46-23-107, MCA, which specified that the orders of the board **are not reviewable. <u>The Board's decisions and activities are subject to judicial review</u>.** Judicial Review is a method of challenging decisions made by a public body in a Court, whereby the Court is requested to review whether the action or decision of a public body is lawful. **It is not an appeal on the merits of a decision**, but a review of the decision making process itself. As such, it has wide potential application to matters of prison law, since a great many decisions made relating to prisoners can be challenged in the courts using this method. Such matters include decisions relating to transfers, discipline, prison rules, categorization and parole board decisions.

Board statistics clearly demonstrate that inmates, whether they have a liberty interest or not, are being released from prison on a regular basis. In contrast to some testimony that was presented to the committee, over the last twenty one years the Board has been remarkably consistent in the parole decision making process.

- On average, over the last 15 years the Board has granted parole to 56% of offenders appearing initially or for reconsideration. This ranges from a high of 71.2% in 2002 and a low of 43% in 1996. In calendar year 2012, 49% of offenders appearing initially were granted parole and 78% reappearing were granted parole (Overall 63.5%).



In a partnership with the Department of Corrections and various private non-profit entities, the Board of Pardons and Parole has released over **8000 felony offenders to supervision** over the last 15 years and nearly **3000 offenders** have successfully completed parole. The majority of these felony offenders completed pre-release prior to parole in so doing placing them in the best possibly position to succeed. Remarkably, not one crime victim or Prosecuting Attorneys, has appeared before the committee, or to my knowledge submitted written information, objecting to the Board's activities! It also very clear that the inmates denied parole and placed on extended review by the Board are serious violent, sex and/or repeat offenders who would represent a risk to the community if released early.



Released=granted parole by the Board and placed in the community under DOC supervision.

Discharged=successfully completed incarceration portion of the sentence on parole; some offenders may have a probation to follow.

Parole Violators=parole revoked by the Board for violation of conditions. Note that nearly 50% do not go to prison but are placed in community corrections programs such as pre-release, Nexus, Watch, and Connections Corrections. Parole violators typically are re-evaluated at the Sanction Treatment Assessment Revocation and Transition (START) unit located near Anaconda.

In closing, I believe District Court Judge Spalding's said it best when commenting regarding SJ 3; ***"this sounds like a solution looking for a problem".*** Based on my 35 years corrections experience, I can assure you that any major changes in the Montana parole system which has evolved over a period of 100 years will have many unintended and chilling consequences.

I strongly believe that it would be more productive and beneficial to the citizens Montana to study the Board in an effort to determine how the Legislature can best assist and support the Board in its efforts rather than attempting to change and/or limit the Board's discretion and abilities to protect the public safety. Thank you for giving me the opportunity to examine this issue.

CCCS, Inc.
START PROGRAM
SUMMARY

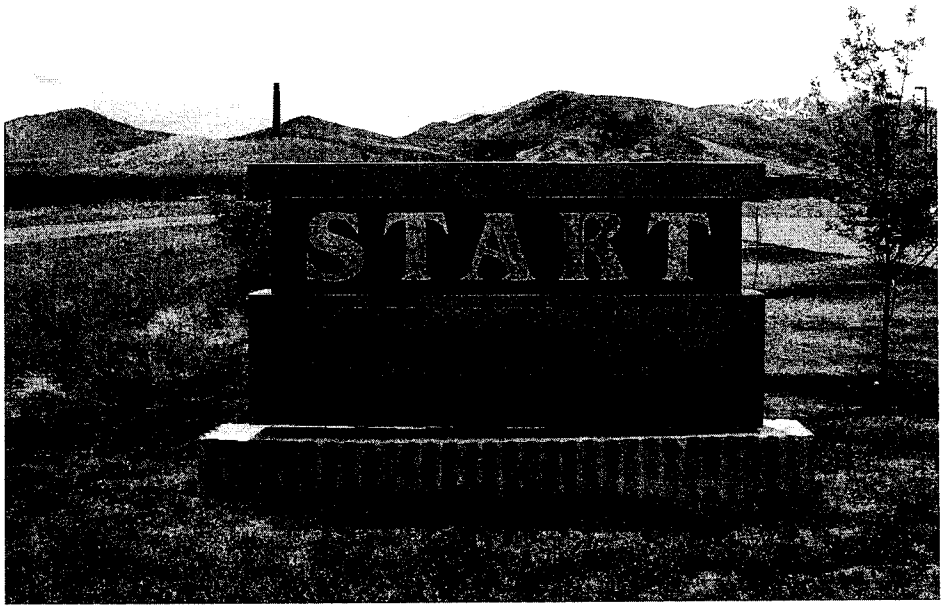
Sanction **T**reatment **A**ssessment **R**evocation and **T**ransition

START provides program services in a safe and secure environment, holds offenders accountable for their actions, and provides placement services that encourage offender accountability, enhance the community transition process, and promote public safety.

Revised: February 11, 2014

START PROGRAM

Sanction Treatment Assessment Revocation & Transition



The START Program initially opened as a pilot project in the old forensics building on the Warm Springs State Hospital campus in Warm Springs, Montana in December 2005. The program was designed as an 80 bed assessment, treatment, revocation, and sanction center for adult male offenders who violated the terms of their respective community placement. Offenders assigned to the facility were designated as either a revocation or a sanction. Over the next five years, the START program proved to be a highly successful option to prison and an additional eight beds were added. The START program continued to successfully provide a wide range of services with a high rate of prison diversions, and in 2010, a new 40,000 square-foot, 142-bed, state-of-the-art facility was constructed near Anaconda, Montana. START opened in the new location on July 29, 2010. Due to increased demand, the program increased capacity from 88 beds to 118 when it moved to the new facility, increased from 118 to 133 in 2011, and increased to 138 in 2012 for fiscal year 2013.

The new 142 bed facility utilizes a podular design for offender housing units and provides services for 138 offenders. In addition, a ten bed housing unit provides specialized services for offenders with mental health needs. Program delivery is accomplished through the direct supervision model of offender supervision and incorporates a highly structured intensive treatment modality designed to encourage cognitive and behavioral change.

<u>Location/Address</u>
START Program
801 Highway 48
PO Box 1389
Anaconda, MT 59711
(406) 563-7002

Revised: February 11, 2014

Directions to the START Facility from Butte:

Take Interstate 90 toward Anaconda. Turn onto MT-1 toward Opportunity/Anaconda. Turn right onto MT-48 (Toward Lost Creek/Warm Springs). The facility will be on your left side approximately one mile from the MT-48 turn-off.

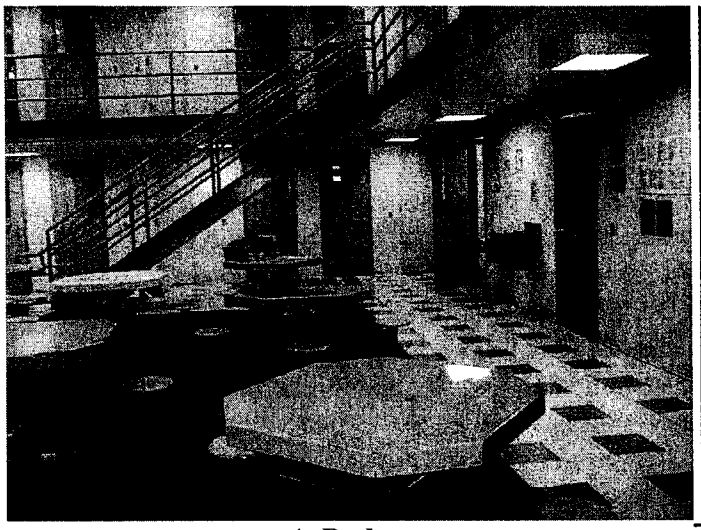
Directions to the START Facility from Anaconda:

Take MT-1 east out of town (toward I-90). Turn left onto MT-48 (toward Lost Creek/Warm Springs). The facility will be on your left side approximately one mile from the turn-off.

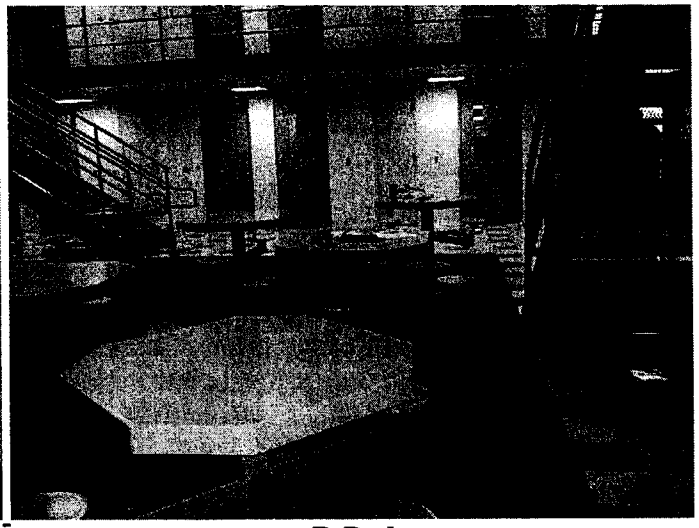
START Program services include:

Revocation

Revocation referrals include offenders whose community placement has been revoked. Revocations may be confined to the START facility from 10 to 120 days. During this time period offenders are expected to maintain clear conduct and participate in program and work assignments. Facility case managers will attempt to salvage a community placement for eligible offenders. Failure to follow program recommendations and/or excessive or major disciplinary violations may result in program termination and the transfer of the offender to the Montana State Prison.



A-Pod



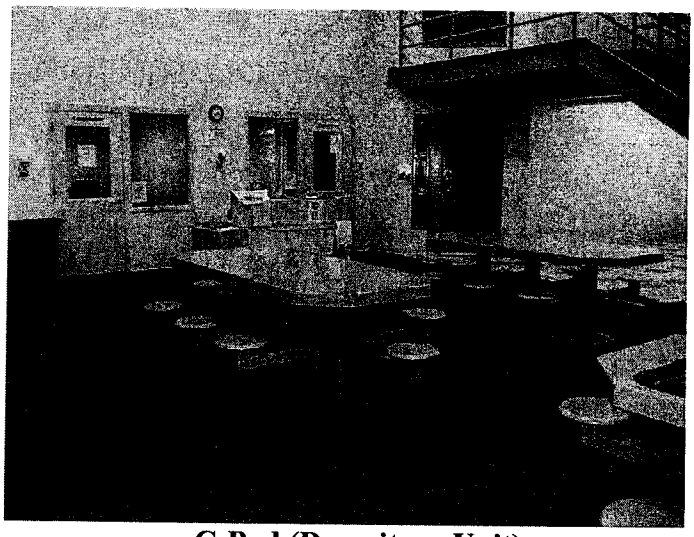
B-Pod

Sanction

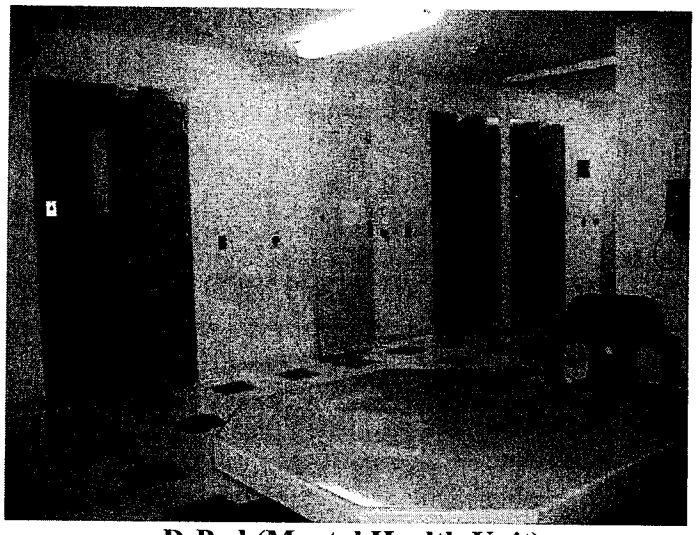
Sanction referrals include offenders whose community placement has not been revoked, but they have received a sanction to the START facility for a pre-determined time period as a result of a formal type of disciplinary hearing. Sanctions of 20 days or less may be imposed, however sanctions in excess of 20 days must be approved by the Community Corrections Administrator. Sanctioned offenders are also expected to maintain clear conduct and participate in program and work assignments. Sanctioned offenders will be returned to their previous status or program assignment upon completion of the sanction. Failure to follow START program recommendations and/or excessive or major disciplinary violations may result in additional formal disciplinary action which may

include program termination, revocation and the transfer of the offender to the Montana State Prison. Special conditions and/or limitations concerning sanction length may apply to certain classes of offenders such as probationers.

Additional placements have included offenders who quit pre-release or other treatment programs, MASC Diversions, and Holds including offenders awaiting a bed date in treatment and/or pre-release centers.



C-Pod (Dormitory Unit)



D-Pod (Mental Health Unit)

Mental Health Unit

The START Mental Health Unit was developed in recognition of the growing need for mental health interventions for community corrections clients and as a unique alternative solution to address and reduce the high cost and long-term placements often associated with placing community corrections offenders in need of mental health services in either prison or a long-term mental health facility. The START Program, having already established a history as a successful and effective diversion program for community correction offenders, now provides specialized counseling, medication management, and stabilization services for mentally ill community correction offenders. These services are primarily provided by the START mental health staff of one full time and one part time mental health professional, a mental health case manager, and two mental health technicians. Two nurses and a contracted physician provide additional medical support services.

The mission of the START Mental Health Program is to provide a safe, secure, treatment environment on a short-term basis in order to evaluate the mental health and treatment needs of Community Corrections participants and facilitate their return to the community.

The START Program provides mental health assessments as needed to assist in stabilization and facilitate the needs of community corrections screening requirements. The Mental Health Unit is a 10-bed pod intended to monitor offenders whose mental health condition warrants close supervision. During this period of supervision, mental health participants receive assessments, medication consultation and management, 1:1 counseling, group counseling, and case management in accordance with individual needs in order to help stabilize the offender for transition back into the community. Mental Health Unit referrals for offenders currently assigned to a community corrections program are typically provided through an Administrative Transfer in which the offender is

transferred to the START Mental Health Program for assessment and stabilization and subsequently returned to the referring community program once he has reached an acceptable level of stabilization. Additional instructions for Administrative Transfers can be found in ACCD Procedure 4.6.200.

Assessment

Sanction and revocation admissions will typically be assessed during the first week of their confinement for treatment, program and aftercare needs. Our intake assessment tools include the following:

1. University of Rhode Island Change Assessment (URICA).
2. Biopsychosocial Assessment
3. Medical Intake Screening
4. Mental Health Screening: Level I
5. Michigan Alcohol Screening Test (MAST)
6. CAGE Questionnaire
7. Substance Abuse Subtle Screening Inventory (SASSI)
8. Treatment Plan

Programs

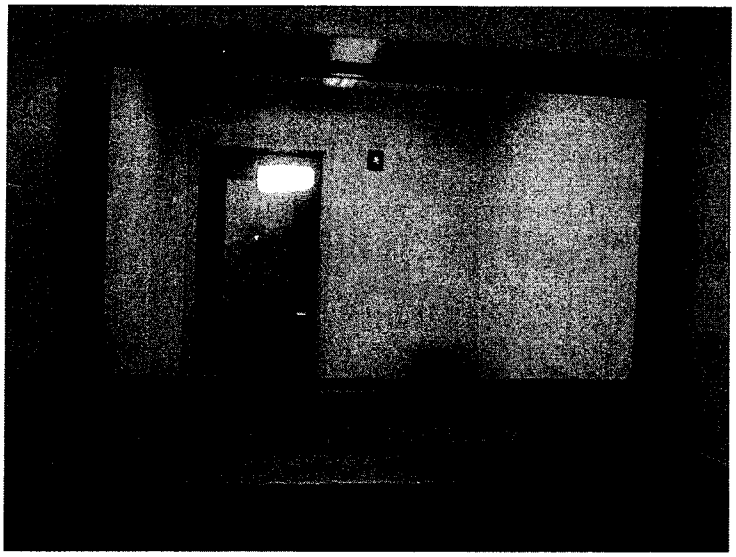
After completing the initial assessment and screening an offender may be offered one or more of the following programs according to assessed needs.

1. Cognitive Programs and Restructuring (CPR)
2. Criminal Thinking Errors (CTE)
3. Anger Management
4. Relapse Prevention
5. Life Skills
6. Changes Program
7. Alcoholics Anonymous, Narcotics Anonymous, or Secular Recovery
8. Medicine Wheel
9. Orientation and Prison Rape Elimination Act (PREA) Training
10. Stress Management
11. S.O.B.E.R. Project
12. Recovery Anonymous
13. Mental Health Program
14. Dialectical Behavior Therapy (DBT)

Offenders not precluded from manual labor due to medical or other reasons are assigned to a work program, placed on our work roster, and rotated through various facility work assignments.

Supervised dayroom and yard recreation is permitted during scheduled times when offenders are not attending groups or work assignments.

Dining Room



Visiting Room

Security Program

Security provides direct supervision care seven days a week twenty-four hours a day. Offender pat searches, cell searches, area searches and inspections are conducted on a routine and random basis. All offenders are required to submit UA samples at intake and on a random basis during their confinement in the facility. A minimum of seven official counts are conducted daily. At least one of the seven daily counts is a stand-up count. Offenders are returned to their cells and the facility is placed on lockdown status for official and emergency counts and from 10:00 PM to 6:00 AM. Census checks are conducted on a random basis as needed by the Security Supervisor. Offenders are confined to the facility and escorts outside of the facility typically require direct staff supervision and full restraints.

Property

The only items of personal property that are authorized into the START Facility through the admission process are the following:

1. 1 set of personal clothing (shirt, pants, coat, shoes, underwear, t-shirt, belt)
2. Legal Papers, Birth Certificate, Social Security Card, Driver's License, Photo ID Card
3. Prescription Glasses, Medical/Dental as indicated by Medical Staff
4. Address Book, Holy Book, Big Book, Family Photos (No Frames or Backing)
5. Religious Medal, Wedding Ring, Watch (max values $100.00)

Facility Contacts

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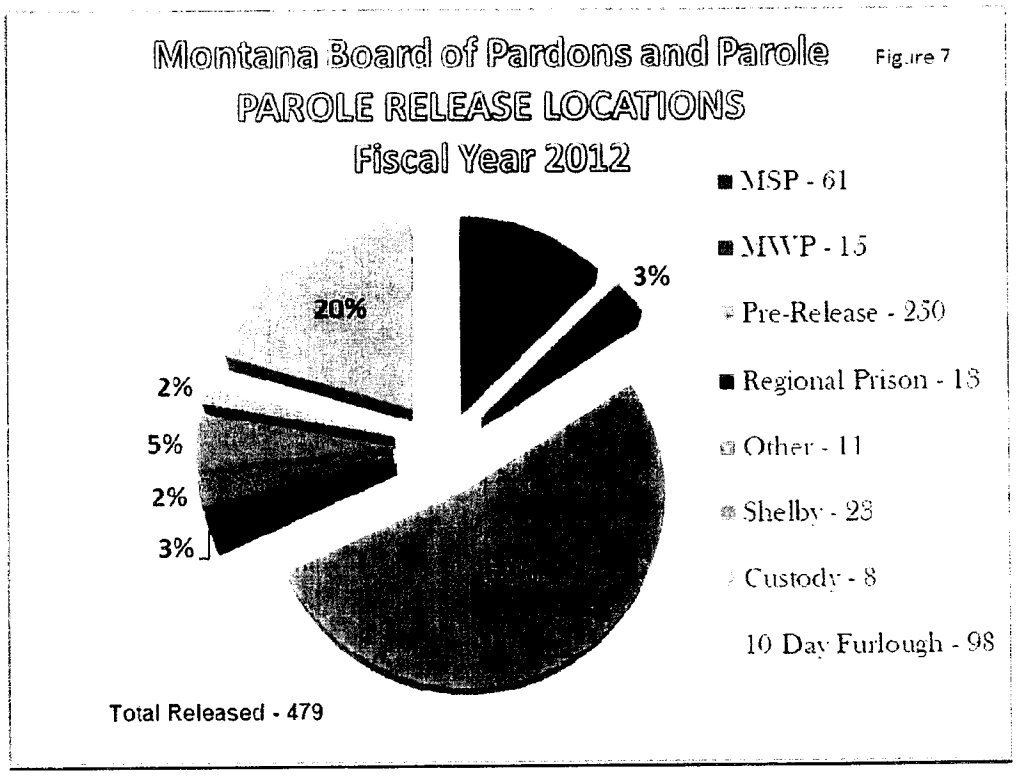

WAIVER:

An inmate may voluntarily waive a parole hearing by notifying the Board in writing. However, a mandatory hearing will be scheduled within six months unless an extended period is necessary as determined by facility staff and approved by board staff, for a period not to exceed one year. Any inmate who has waived a Parole Board hearing may see the Board earlier by giving at least 30 days written notice. Additional waivers may be allowed under certain circumstances, but must be approved by the Board.

NOTIFICATION OF DECISION:

All decisions issued from the Board are in writing and must be signed by at least two Board members. When an inmate has been denied parole, written notification will include the date of any future Board consideration. The disposition will include any special conditions or terms to be required by those granted parole. (See Appendix for example of dispositions).

STATE OF MONTANA - BOARD OF PARDONS AND PAROLE
CASE DISPOSITION – DENIAL

☐ Initial ☐ Reappearance ☐ Review

TO: _____ DOC ID: _____

After careful evaluation of all relevant facts known to the Board, including those under §46-23-202(1), MCA, and in accordance with §46-23-201 through §46-23-218, MCA, the Board denies your parole application or reapplication at this time.

Reappearance Date: _____ **Progress Review Date:** _____ ☐ **Pass to Discharge**

A. In the opinion of the Board, there is reasonable probability that you are not currently able and willing to fulfill the obligations of a law-abiding citizen. Our conclusions are based on the following:

NEED FOR IMPROVED:

☐ Institutional conduct
☐ Institutional custody level
☐ Housing unit/work evaluation
☐ Parole plan
☐ No interest in parole
☐ Attitude toward authority

Remarks/Other: _____

B. In the opinion of the Board, there is reasonable probability that you cannot be released at this time without being a detriment to yourself or the community. Release at this time would not be in the best interest of society.

OUR CONCLUSIONS ARE BASED ON THE FOLLOWING:

☐ Nature or severity of offense(s)
☐ Previous criminal history
☐ Pattern of similar offenses
☐ Escape(s) from custody
☐ Multiple offenses
☐ Poor history in community placement and/or under supervision
☐ Repeat sex offenses
☐ Strong objection from criminal justice authorities and/or citizenry

Remarks/Other: _____

C. In the opinion of the Board, there is a need for education, job training, treatment, or continued treatment to enhance success on parole and further insure that the applicant is willing and able to fulfill the obligations of a law-abiding citizen.

THE FOLLOWING ARE INDICATED NEEDS:

☐ Adult Education/GED
☐ Sex offender treatment
☐ Anger management
☐ No early consideration
☐ Chemical dependency counseling
☐ Mental health
☐ Pre-release extended stay/worker
☐ Request a return/review
☐ TSCTC/ ICP/Aftercare
☐ CP&R
☐ Pre-release
☐ _____

Remarks/Other: _____

Board Member _____

Board Member _____

Board Member _____

Date: _____

BOPP (white)
INMATE (yellow)
RECORDS (pink)
IPPOs (gold)

STATE OF MONTANA, BOARD OF PARDONS

Case Disposition: [ ] Initial Parole Hearing [ ] Reappearance [ ] Annual Review

TO: _____ No. _____ DATE: _____

After careful evaluation of all relevant facts known to the Board, including those under Section 46-23-202(1), MCA. and in accordance with Sections 46-23-201 through 46-23-218, MCA., the Board denies your parole application or reapplication at this time.

Your case will be continued until: _____ Annual Review Date: _____

Because:

[ ] A. In the opinion of the Board, there is reasonable probability that you are not at present able and willing to fulfill the obligations of a law-abiding citizen. Our conclusions are based on the following:

Need for improvement of performance in:

Institutional conduct [ ] Housing unit evaluation [ ] Work record [ ]

Other:

Reduced custody [ ] Inadequate Parole Plan [ ] General unsatisfactory institutional adjustment [ ]

SAMPLE OLD - DENIAL

Remarks/Other: _____

[ ] B. In the opinion of the Board, there is reasonable probability that you cannot be released at this time without being a detriment to yourself or the community. Release at this time would not be in the best interests of society. Our conclusions are based on the following:

Nature of/or severity of offense(s)	[ ]		
Previous criminal history	[ ]	Multiple offenses	[ ]
Pattern of similar offenses	[ ]	Past failure(s) on parole and/or probation	[ ]
Previous escape(s) from custody	[ ]	Repeat sex offense(s)	[ ]

Remarks/Other: _____

[ ] C. In the opinion of the Board, there is need for education, job training, treatment or continued treatment to enhance success on parole and further insure that the applicant is willing and able to fulfill the obligations of a law abiding citizen. The following are indicated needs:

Need to complete G.E.D.	[ ]	Need to develop sound work record	[ ]
Need for job or vocational training	[ ]	Need for basic education	[ ]

Need for appropriate treatment

Mental Health	[ ]	Sex therapy	[ ]
Aggression control	[ ]	Assertiveness training	[ ]
		Chemical Dependency	[ ]

Remarks/Other: _____

cc: BOP
MSP
D of I

BOARD MEMBER _____

BOARD MEMBER _____

STATE OF MONTANA
BOARD OF PARDONS
Deer Lodge, Montana

Date: November 22, 1968

To: BRYNAN, Frank MSP# 17183

This is to notify you of the decision of the State Board of Pardons in the matter of your parole consideration this date.

_____ 1. That you be paroled to the plan you submitted after approval of the Field Officer.

✓ 2. That you be paroled to any plan approved by the Field Officer.

_____ 3. That you be paroled subject to the following special conditions.

_____

_____ 4. That your case be continued until _____

_____ 5. That you be denied parole at this time because some of the following conditions apply. (For inmates set back a year or more)

(a) Previous record indicates that you are probably unable to complete a parole successfully.

(b) Your behavior and/or work record at the institution.

(c) Your crime was committed while on an escape.

(d) Your crime was committed while on parole or probation.

(e) Your previous record while on parole.

(f) The time span between conviction is too close, indicating inability to adjust in thefree world.

(g) Your attitude indicates it would not be proper to grant a parole at this time.

SAMPLE OLD PAROLE DENIAL

FURTHER COMMENTS:

Do not write to the State Parole Board on matters pertaining to your parole. If you have any question or new information which you desire to bring to the Board's attention, put in a slip to see the Institutional Parole Officer.

The State Probation and Parole Board is a separate unit set up by Statute to parole or revoke parole at correctional institutions. The officials of the institution where the Board holds its hearings act in an advisory capacity only, and have no control over the decisions of the Board.

BY Fred White, Jr., Director
State Board of Pardons

cc: Records Clerk
File

STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
CASE DISPOSITION - REVOCATION

To: _____ DOC ID _____ Date: _____

In accordance with Sections 46-23-1023 - 46-23-1025 MCA, it is the order of the Board that your parole is revoked based on the violation of the following condition(s):

_____
_____
_____
_____
_____

SAMPLE / CURRENT

Dead Time:

❑ A. None
❑ B. It is the order of the Board that the time from the issuing of the parole violation warrant on _____ to the date of return to Montana custody on _____
❑ **IS NOT COUNTED** ❑ **IS COUNTED** as time served under the sentence.

FURTHER RELEASE CONSIDERATION

After careful evaluation of all relevant facts known to the Board, the Board takes the following action:

❑ A. **Parole will be granted** subject to the standard parole conditions with the following changes and/or added special conditions: _____
_____
_____
_____

Note: Any misconduct on your part prior to release, substantial changes in parole plan, and or new information and evidence received that was not available for this hearing may result in the rescission of your parole. Be advised that you are subject to "official detention" until a parole certificate is issued authorizing your release from confinement and you have signed the "Conditions of Parole" document.

❑ B. **Parole denied**:
- ❑ Passed to the discharge of term
- ❑ Scheduled for a reappearance date of _____
- ❑ Scheduled for a progress review date of _____

Our conclusions are based on the following:

- ❑ Nature of violation(s)
- ❑ Nature or severity of offense(s)
- ❑ Previous criminal history
- ❑ Need for an improved release plan
- ❑ Poor institutional performance
- ❑ Pattern of similar offenses
- ❑ Multiple offenses
- ❑ Poor history under supervision
- ❑ Strong community objections
- ❑ Need for pre-release placement
- ❑ Need for _____
- ❑ Comments _____

CC: BOP&P (white)
INMATE (yellow)
RECORDS (pink)
IPPO (gold)

Board Member _____

Board Member _____

STATE OF MONTANA
BOARD OF PARDONS
Deer Lodge, Montana

TO: HUTTINGER, Brad

MSP#: A012322

DATE: November 30, 1990

The Board of Pardons of the State of Montana, in regular session, has taken the following action in your case:

It is the order of theBoard that your parole be revoked for the following violations:

Rule #6. Intoxicants. You shall not drink any intoxicants nor will you frequent any place intoxicants are the chief item of sale.

A. On December 31, 1989, you contacted your parole officer and admitted that you had several drinks.

B. On October 14, 1990, you were arrested and cited in Cascade County, Montana for driving under the influence. Shortly after your arrest, a blood alcohol test was taken and the results indicated a .169 blood alcohol concentration.

Rule #13. Laws and conduct. On October 24, 1990, you plead guilty to a DUI and speeding in Justice of the Peace Court in Cascade County.

You plead guilty to both violations at your on-site hearing.

Review annually. Request a return to the board upon completion of [illegible] and Anger Management.

No time time.

SAMPLE OLD

BOARD OF PARDONS

BY: [signature]
Executive Secretary

BY: [signature]
Board Member

cc: Records Clerk
File
AP & P

STATE OF MONTANA
BOARD OF PARDONS
Deer Lodge, Montana

TO: [illegible] MSP#: [illegible]

DATE: [illegible]

The Board of Pardons of the State of Montana, in regular session, has taken the following action in your case:

[illegible]

SAMPLE PAROLE REVOCATION

BOARD OF PARDONS

BY: [illegible]
Executive Secretary

cc: Records Clerk
File
AP & P

STATE OF MONTANA - BOARD OF PARDONS AND PAROLE
CASE DISPOSITION

TO _____ DOC ID _____

This is to notify you of the Montana State Board of Pardons and Parole decision in your parole consideration, in accordance with Sections 46-23-201 - 46-23-218, and 46-23-1021 - 46-23-1031, MCA.

You will be granted parole subject to the standard parole conditions* with the following changes and/or added special conditions:

Standard Parole Conditions (paraphrased): Residence must be approved by PO. shall not change place of residence without PO's approval, shall not own dangerous/vicious animals. use security doors, or any other device that would hinder an officer. or refuse to open the door when requested; shall not leave assigned district without PO's written permission, shall maintain employment or a program approved by BOPP or PO. must inform employer of parole status, and must obtain PO's permission prior to any change of employment; shall report to PO as directed: shall not own, possess. transfer. or be in control of any firearms. ammunition (including black powder), weapons, or chemical agents such as O.C. or pepper spray; shall obtain PO's permission before making any financial transactions; shall submit to search by PO at any time without a warrant; shall comply with all laws and ordinances. conduct yourself as a good citizen, and report any arrests or contacts with law enforcement to your PO; shall not possess or use illegal drugs or drug paraphernalia: shall not possess or consume intoxicants/alcohol. shall submit to breathalyzer or bodily fluid testing as requested by PO: shall submit to alcohol and/or drug testing as required by PO: shall not gamble: pay supervision fees: pay victim restitution: pay fines and fees as ordered by the court.

- ☐ Parole when the Board determines you have successfully completed _____
- ☐ Parole to ISP – comply with all rules and conditions of the program
- ☐ Regular Chemical Dependency Counseling
- ☐ Regular Mental Health Counseling
- ☐ Regular Sex Offender Counseling
- ☐ Restricted from maintaining a checking or credit card account
- ☐ Comply with court ordered conditions
- ☐ Restricted from entering any place where gambling takes place
- ☐ Shall not enter any place where intoxicants are the chief item of sale
- ☐ Restricted from operating a motor vehicle while on parole
- ☐ Restricted from participating in any medical marijuana program
- ☐ Other _____

CURRENT PAROLE DISPOSITION

I have been advised and fully understand that I am subject to "official detention" until a parole certificate is issued authorizing my release from confinement and I sign the "Conditions of Parole" document. Any misconduct on my part prior to release, substantial changes in parole plan, and/or new information and evidence received that was not available at the time of my parole hearing may result in the rescission of my parole.

Acknowledgment _____

The Board members will render a final disposition on the _____ day of _____, _____, at Deer Lodge Montana

Hearings Officer _____ Date: _____

Board Member _____

Board Member _____

Board Member _____

Date. _____

BOPP (white)
INMATE (yellow)
RECORDS (pink)
IPPOs (gold)