

Parole Application for Prisoners Sentenced to Life for Murder



Information for families and others
bereaved by murder.



Government of South Australia

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Introduction

When a family member or friend is killed by another person the emotional and physical devastation is immeasurable; the consequences unimaginable, far reaching and overwhelming. Nothing can prepare you for this and your life is never the same after the homicide of a loved one.

Despite the passing of time, the pain of losing your loved one does not diminish. Most people however, find that as the years pass they are better able to cope with their grief and loss. They learn to survive despite the loss and trauma.

Notification of parole may bring a renewed focus to your grief and loss.

This booklet is written to assist family members and others bereaved by murder, who throughout this booklet are referred to as co-victims. It explains parole and the parole application process, how co-victims might participate and who can assist you through this process.

When can a murderer apply for release onto parole?

A murderer or life-sentenced prisoner may apply for release onto parole six months prior to the completion of the non-parole period. The non-parole period is set when the court sentences the prisoner, or upon application by the prisoner to the court.

What is the purpose of parole?

Parole is the release of a prisoner from custody to serve the balance of their sentence in the community.

The purpose of parole is to supervise and support the prisoner's reintegration while providing a continuing measure of protection to the community and co-victims if they choose.

Whilst on parole, the prisoner (now a parolee) is still considered to be under a life-sentence. It is a form of conditional release that involves a review of information and assessment of risk (as explained later). A parolee must abide by the conditions of their release. If the conditions of parole are not met, the parolee may be returned to custody and parole may be revoked.

Who decides if a life-sentenced prisoner is released?

The Parole Board of South Australia decides if a murderer should be released. It cannot resentence a murderer, rather it administers the court's sentence.

What is the Parole Board?

The Parole Board is an independent body. It consists of ten members appointed by the Governor for specific terms of between three and five years. The Presiding Member and the two Deputy Presiding Members must have extensive experience in the criminal justice system. Other members include a psychiatrist, an expert in criminology, a person of Aboriginal descent, a former police officer and a person with knowledge and experience in matters related to the impact of crime on co-victims and the needs of co-victims.

The Parole Board can sit as a full Board, with a minimum of five members, or as a division comprising three members including the Presiding or a Deputy Presiding Member.

What is the Parole Board's role?

The Parole Board cannot re-sentence a prisoner.

The Parole Board's role is to :

- hear parole applications and decide whether a prisoner is released on parole
- set parole conditions
- monitor the progress of those on parole
- hear breaches of parole conditions and determine what action is to be taken
- undertake prisoner reviews.

What does the Parole Board have to consider?

The paramount consideration of the Board is the safety of the community. The Parole Board will consider the prisoner's general behaviour whilst in custody, as well as attempts made to better themselves within the prison system. The Board can refuse parole for prisoners who have not shown any significant attempt to address their offending behaviour or who are deemed to pose a risk to the community. The Board also considers a wide range of factors and information before deciding whether to release a prisoner onto parole or not. These include:

- The safety of the community if the prisoner is released;
- The ability of the prisoner to address their offending behaviour – such as how the prisoner has behaved during imprisonment or home detention and what they have undertaken to address offending behaviours;
- The likelihood of the prisoner complying with conditions of parole and how the prisoner has behaved on any previous release on parole or other community-based supervision order;

- The circumstances and gravity of the offence, or offences, for which the prisoner was sentenced to imprisonment but only where it may assist the Board to determine how the prisoner is likely to behave should the prisoner be released on parole;
- Consideration of any reports tendered to the Board on the social background, the medical, psychological or psychiatric condition of the prisoner, or any other matter relating to the prisoner;
- The prisoner's insight into the offence - the Parole Board does not look positively at prisoners who do not admit their guilt to the offence; and
- The impact of the release on co-victims as well as their safety concerns.

These factors also influence the parole conditions set by the Board.

The Parole Board must also be satisfied that the prisoner has satisfactorily cooperated in the investigation of the offence (whether the cooperation occurred before or after the prisoner was sentenced to imprisonment). For such purpose, the Board must take into account any report tendered to it from the Commissioner of Police evaluating the prisoner's cooperation in the investigation of the offence, including:

- (a) the nature and extent of the prisoner's cooperation;
and
- (b) the timeliness of the cooperation; and
- (c) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner;
and
- (d) the significance and usefulness of the prisoner's cooperation.

Can I make a submission to the Parole Board?

Any person who has been affected by the prisoner's crime might write to the Parole Board. This provides an opportunity for you to bring to the attention of the Parole Board any issues you want the Board to take into account when considering parole applications and in setting parole conditions. There are no hard and fast rules about what can be included in your submission. You are entitled to express your anger but your submission should not be rude or offensive.

Submissions could include the following:

- When there are perceived safety concerns or other worries, such as the possibility of unduly impacting on the co-victims health and well-being, co-victims can request that certain locations or areas be noted in the conditions as restricted areas for the prisoner/parolee;
- Any outstanding issues that the co-victim feels should be brought to the Board's attention (e.g. copies of Intervention Orders or Family Court Orders that may be relevant); and
- Ongoing issues relating to the impact of the offence on the co-victim and family members.

Written submissions should be addressed to the Secretary, Parole Board of South Australia, 181 Flinders Street, Adelaide, South Australia, 5000. You can also ask to make your submission in person. If you wish to do so you should contact the Parole Board on 8224 2555.

All submissions to the Parole Board are confidential and prisoners will not have access to them.

Co-victims who are registered with the Department for Correctional Services (DCS Victims Register) will automatically be advised of forthcoming parole applications. If you would like more information about the DCS Victims Register please see the 'Where can I get help' section at the back of this booklet.

Will the prisoner see my submission?

All submissions to the Parole Board are confidential and prisoners **will not** have access to them. If however, information from your submission is used to justify the Parole Board's decision and the prisoner asks for an explanation of that decision, the Board will summarise the relevant information in its report to the prisoner. The Parole Board does not say, however, that the information came from a co-victim but specific information might, by its nature identify the source. For example, a prisoner may be able to identify a co-victim as the source of information if that information was known only to the prisoner and the co-victim before the crime. Be frank; be honest but be careful.

Who else makes a submission?

Commissioner for Victims' Rights

Some co-victims do find it too difficult and/or traumatic to write their own submission. Therefore the Parole Board will obtain a submission from the Commissioner for Victims' Rights representing the co-victims.

For this purpose, the Commissioner for Victims' Rights will take all reasonable steps to contact any co-victims whether they are registered with DCS or not. This may require the Commissioner to contact other agencies, such as police, in attempt to locate the whereabouts of co-victims.

Any personal information, such as your address or phone number, obtained during the parole process will be treated in the strictest of confidence. There should be no unnecessary intrusion into your privacy.

It is not however, always possible to locate all co-victims. If you believe you have an interest in a parole matter and would like your views represented you can contact the Commissioner for Victims' Rights (see page 14).

This is an opportunity to tell the Parole Board how you feel and have any safety concerns considered. Many co-victims are appreciative of the opportunity to be heard but you do not have to participate if you do not wish to do so.

Alternatively, you may nominate a family member or significant other to represent your views and liaise with the Commissioner for Victims' Rights. You can discuss this when the Commissioner contacts you or you contact the Commissioner for the first time.

The Commissioner for Victims' Rights will contact registered and non-registered co-victims to obtain their views on the prisoner's application. These views will be included in a submission to the Parole Board.

South Australia Police

When determining whether to order that a prisoner serving a sentence of life imprisonment for an offence of murder be released on parole, the Parole Board must be satisfied that the prisoner has satisfactorily cooperated in the investigation of the offence. This includes cooperation before or after the prisoner was sentenced.

The South Australia Police is therefore asked to provide a report to the Board evaluating the prisoner's cooperation in the investigation of the offence, including:

- the nature and extent of the prisoner's cooperation; and
- the timeliness of the cooperation; and
- the truthfulness, completeness and reliability of any information or evidence provided by the prisoner; and
- the significance and usefulness of the prisoner's cooperation.

What happens if the Parole Board determine to release the life-sentenced prisoner?

If the Board orders the release of a prisoner who is serving a sentence of life imprisonment, it must provide a copy of the order and a written statement of the reasons for making the order to the following persons:

- (i) the CE for Corrections;
- (ii) the prisoner;
- (iii) the Attorney-General;
- (iv) the Commissioner of Police;
- (v) the Commissioner for Victims' Rights;

Is a Parole Board decision reviewable?

If the Parole Board determines to release a life-sentenced prisoner, the Board notifies the Attorney-General, Police Commissioner and Commissioner for Victims' Rights. The date of notification marks the commencement of a 60 day period during which the Attorney-General, Police Commissioner or Commissioner for Victims' Rights can lodge a request for a review of the Board's decision by the Parole Administrative Review Commissioner.

There must be valid grounds for the review such as a decision by the Parole Board is seen to be illogical or inconsistent with the law (which requires, for example, that community safety be the primary consideration) or that the Parole Board has not paid adequate attention to the impact of the prisoner's release on the deceased co-victim's family.

The Commissioner for Victims' Rights will contact the co-victims and advise them of the Parole Board's decision. At this time you will be notified of the commencement of the 60 day period.

What happens if there is no request for a review?

If the Parole Board does not receive a request for review, it will set a date for prisoner's release onto parole.

The Commissioner for Victims' Rights will contact co-victims to advise them of the release date and of any conditions that relate to them. For example, co-victims will be told if the parolee has to stay away from them or is not permitted to enter a geographical area in which they live or work.

Staff from the Department for Correctional Services, Victim Services Unit will then keep registered victims informed.

If you wish to receive ongoing information you should register as soon as possible. For information about the DCS Victims Services Unit please see the 'Where can I get help' section at the back of this booklet.

What happens if the decision for release is opposed?

If a decision for release is opposed, the matter will be sent before the Parole Administrative Review Commissioner, to make the final decision.

The Commissioner for Victims' Rights will notify you of the final decision.

How long is a life-sentenced prisoner on parole?

A prisoner serving a sentence of life imprisonment who is released on parole will, unless the release is cancelled or suspended, or the sentence extinguished, remain on parole for the remainder of the sentence – in other words, for life.

If parole is refused when can the prisoner re-apply?

If the prisoner's application is refused they may lodge another application in twelve months' time from the date of refusal.

What type of parole conditions might be set?

The Parole Board sets the parole conditions that a prisoner must accept before being released on parole. The Parole Board can impose any condition to address the prisoner's offending and that they see fit for risk management of that person. The prisoner will be informed of the parole conditions set by the Board and will not be released onto parole unless he or she has accepted the conditions in writing.

All parolees (including murderers) are subject to the following conditions:

- That they do not commit any offence
- That they do not possess an offensive weapon (unless the Parole Board approves)
- That they be under the supervision of a community corrections officer and obey the officer's reasonable directions.

Prisoners who are released on parole but are serving life imprisonment are also subject to additional conditions:

- That they do not possess any firearm or ammunition or part of the same
- That they surrender any firearm or ammunition or part of the same owned or possessed by them
- That they submit to gunshot residue testing as reasonably required by their community corrections officer.

The following are examples of other general conditions:

- Not to consume alcohol or other illegal drugs
- Not to enter licensed clubs or bars
- Attendance at referred programs
- Reporting to the Community Corrections Officer assigned to the offender
- That the offender seeks prior consent from their Community Corrections Officer of any request to change residence
- Not to leave the state of South Australia, without prior written permission of the Parole Board or their Community Corrections Officer
- Not to enter a specific area or location
- Not to contact the victim or the victims' family. Note this is an automatic condition for registered victims. Registered victims can ask for this condition to be removed.
- Urine testing and alcohol breath testing at the Community Correction Officer's discretion or as directed by the Department/Parole Board
- Any other condition the Board sees fit to impose.

What happens if the prisoner (or parolee) breaches their parole conditions?

If the parolee breaches their conditions the Parole Board may:

- Issue a warning; require the prisoner to take certain actions (e.g. attend a program or Community Service)
- Summons the parolee to appear before the Board to consider the breach
- Issue a warrant for arrest to appear before the Parole Board.

If the Parole Board finds a breach proved parole may be cancelled.

Where appropriate, it is the Parole Board's policy to extradite a parolee who has absconded or who commits breaches and/or offences in other states and territories.

The Parole Board can change a condition of, or revoke parole for any parolee. The Parole Board may also discharge a parolee completely from parole; however, it cannot discharge a parolee who is subject to a life sentence. A prisoner sentenced to life imprisonment, if released on parole remains on parole for life.

How will I feel?

As previously stated, notification of parole may bring a renewed focus to your grief and loss. You may experience a range of strong physical and emotional reactions. You may find you revisit thoughts, feelings and memories.

In addition, you may be angry that the person responsible for the death of your loved one may be released on parole. This may seem unfair when you continue to deal with your loss. You may feel frightened.

These are all normal reactions to being informed that the life-sentenced prisoner is applying for release on parole.

If at any stage you become concerned or overwhelmed by the way you are feeling you should consult your doctor or counsellor.

It is worth noting however, that some people respond differently to the news.

Some people, over the years since the death of their loved one, come to recognize that anger can become all-consuming and that it can negatively impact on their own physical and mental health. For their own well-being, some people feel that they must embrace forgiveness and compassion towards the offender. This leads some people to feel that the offender deserves a second chance.

Others do not necessarily believe that the prisoner deserves a second chance but accept that as a prisoner has completed their non-parole period they will likely be released at some point. Their primary concern is that the offender does not pose a risk to the community as they do not want another family to experience the pain and suffering that they have.

There is no right or wrong way to feel about the application for parole. You are entitled to feel the way you do and to express those views to the Parole Board. Your views are important to the Parole Board.

Who should I tell if my contact details change?

If you are registered with the Department for Correctional Services, Victim Services Unit you should notify them if your contact details change at any time. (See page 15 for contact details).

If you are not a registered co-victim you should notify the Commissioner for Victims' Rights if your contact details change at any time (See below for contact details).

Where can I get help?

Commissioner for Victims' Rights

The Commissioner is an independent statutory officer who helps victims in their dealings with the criminal justice system, public officials and public agencies, including assisting victims to make submissions to the Parole Board.

Phone: 8204 9635

Email: victimsofcrime@sa.gov.au

GPO Box 464, Adelaide, SA 5001

See also www.voc.sa.gov.au

Parole Board of South Australia

Before contacting the Parole Board you may wish to consider contacting the Department for Correctional Services, Victim Services Unit or the Commissioner for Victims' Rights in the first instance. The Victim Services Unit and the Commissioner for Victims' Rights can assist you in your dealings with the Parole Board.

Phone: 8224 2555

181 Flinders Street, Adelaide, SA 5000

GPO Box 1747, Adelaide SA 5001

Victim Services Unit, Department for Correctional Services

The Department for Correctional Services, Victim Services Unit provides Registered Victims with timely and accurate information about prisoners' movement through the correctional system, as well as assessing and responding to registered victims' individual needs and concerns.

Services provided to Registered Victims include:

- Information about sentence details in relation to imprisonment and community based orders
- Information about which prison the offender is accommodated in
- Details of any escape from custody
- Information about when and under what circumstances a prisoner is eligible for release from custody
- Information about how to make a written submission to the Parole Board
- Consultation about "no contact" conditions and exclusion zones
- Action to prevent offenders living close to victims
- For community based orders (probation, parole, community service, home detention) whether or not the order was successfully completed and any imprisonment or return to custody during the order.
- Information about other services and supports available to victims
- A point of contact to ask questions, express concerns and seek information and advice.

You can contact the Department for Correctional Services, Victims Services Unit at any time to seek information or advice. Applications for registration can be made via the on-line form or by downloading and printing a form. Forms can also be mailed to applicants.

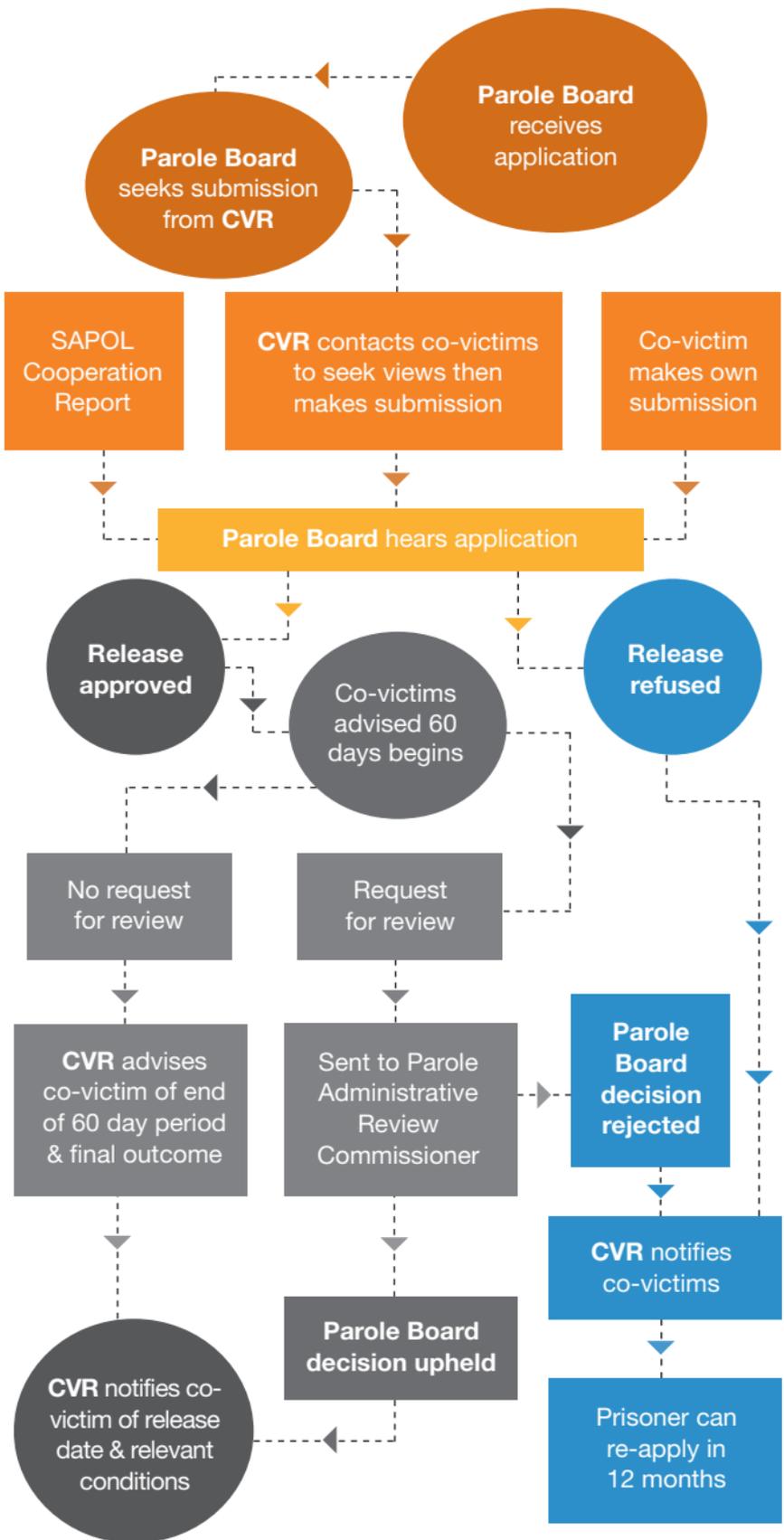
Phone: 8226 9067 or 8226 9704

Email: DCS.Central@saugov.sa.gov.au

Web: www.corrections.sa.gov.au/victims-info

GPO Box 1747, Adelaide, SA 5001

Parole Process Flowchart





Government of South Australia
Attorney-General's Department

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