

**MPC Regulations (Proposed Text In Bold Italics)**

12.08.01.17

A. Parole Consideration and Parole Hearings

...

(7) Sentence of Life Imprisonment.

...

***(h) When the Commission determines that an individual has demonstrated suitability for parole, the Commission will not send a recommendation for commutation in lieu of a recommendation for parole;***

C. Notice to Inmate and Access to Files.

(1) Notification. Before any parole hearing, it shall be the duty of the several institutional parole agents to furnish the applicant for parole with written notice of the:

(a) The date, time, and place of the hearing;

...

...

(3) Time of Notice. The notice shall be furnished the inmate not less than ***15*** days before the parole hearing unless, in certain individual cases and for good cause, the time must be shortened.

...

(5) Review of Parole Commission file.

...

(b.) Except as provided in Correctional Services Article, § 7-303(b)(1)(ii), Annotated Code of Maryland, the inmate ***and*** the inmate's representative may, on request, examine a document that the Commission or Hearing Examiner uses in determining whether the inmate is suitable for parole. ***A State's Attorney's communications concerning an inmate who is being considered for parole are***

*not confidential unless the Commission believes that releasing the communications would compromise the safety of one or more individuals. If any documents are withheld, the Commission will list each document being withheld and provide a summary as required by Correctional Services Article, § 7-303(b)(1)(iii).*

...

(d.) *If a risk assessment is prepared for the Commission, upon receipt by the Commission, it will provide the individual with a copy of his or her risk assessment or a summary of the risk assessment.*

....

#### 12.08.01.18 Consideration for Parole.

##### A. General.

(1) — (2) (text unchanged)

(3) ***In deciding whether an inmate serving a life sentence for a crime committed under the age of 18 is suitable for parole, the Commission considers whether the individual has adequately demonstrated maturity and rehabilitation since commission of the offense.*** In addition to the factors contained under §§A(1) — (2) of this regulation, the Commission considers the following ***mitigating*** factors, ***to which it affords appropriate weight***, in determining whether a prisoner who committed a crime as a juvenile is suitable for release on parole:

(a) Age at the time the crime was committed;

(b) The individual's level of maturity and sense of responsibility at the time of the crime was committed;

(c) Whether influence or pressure from other individuals contributed to the commission of the crime;

(d) Whether the prisoner's character developed since the time of the crime in a manner that indicates the prisoner will comply with the conditions of release;

(e) The home environment and family relationships at the time the crime was committed;

(f) The individual's educational background and achievement at the time the crime was committed; ***and***

(g) Other factors or circumstances unique to prisoners who committed crimes at the time the individual was a juvenile that the Commissioner determines to be relevant.

(4) To make these determinations the Commission examines:

(a) The offender's prior criminal and juvenile record and the offender's response to prior incarceration, parole or probation, or both;

(b) The offender's behavior and adjustment and the offender's participation in institutional and self-help programs, ***including progression to lesser security in the Division of Correction;***

(c) — (1) (text unchanged)

***(5) The circumstances surrounding the crime, which diminish in significance as a consideration after the initial parole hearing.***

***(6) The Commission may recommend that an inmate serving a sentence for a crime committed under the age of 18 progress to a lower security level in the Division of Correction under the following circumstances and as provided in E(3)(e):***

***(a) The inmate has completed all programming and treatment available at the current security level;***

***(b) The inmate would benefit from privileges, programming and treatment that are available at only the lower security level, including the opportunity to demonstrate parole suitability through adjustment at the lower security level;***  
***or***

***(c) The individual was previously found suitable for release by the Commission.***

***(7) Any risk assessment tool relied upon by the Commission will include dynamic factors and will account for independent clinical judgment in assessing risk.***

***(8) In deciding whether to recommend parole for an inmate serving a sentence of life imprisonment, the Commission shall not consider whether the inmate has successfully completed a period of work release if the inmate has never been eligible for work release.***

B. Hearings.

(1) – (4) (text unchanged)

C. Procedure.

(1) (text unchanged)

(2) Parole hearings conducted by ***parole commissioners and*** hearing examiners shall be electronically or stenographically recorded. ~~[to preserve a record for appeal unless the~~

~~inmate waives the recording with the understanding the waiver might preclude an appeal].~~

(3) *Except as provided in paragraph (4) of this regulation*, the recording will be destroyed 30 days after the hearing unless an appeal has been taken under the provisions of Regulation .19. In cases of appeal, the recording shall be destroyed upon conclusion of the appeal hearing.

***(4) The recording of a parole hearing conducted for an inmate serving a life sentence for a crime committed under the age of 18 shall be retained until after the later of the conclusion of the inmate's next parole hearing or until the final disposition of any action for judicial review of the parole decision.***

(renumbering remainder of subsection)

D. (text unchanged)

E. Decisions

(1) At the end of a parole interview, the inmate shall be verbally informed of the hearing examiner's recommendation, or of the decision in cases heard by two or more commissioners.

(2) A written copy of the hearing examiner's recommendation and the Commission's action relative to the recommendation, or a written copy of a Commission panel's decision shall be prepared and served upon the prisoner in accordance with Correctional Services Article, §§ 7-306 and 7-307, Annotated Code of Maryland. A copy of the written decision shall be retained in the Commission's file on the prisoner and in the prisoner's institutional base file.

***(3) A written decision denying parole to an inmate serving a life sentence for a crime committed under the age of 18 shall include specific findings as to why the inmate has failed to demonstrate suitability for parole. The decision shall:***

***(a) state that the Commission has weighed the diminished culpability of youth, hallmark features of youth, and capacity for growth and maturation in reaching this conclusion;***

***(b) state why the Commission has determined that the inmate has not yet demonstrated sufficient maturity and rehabilitation;***

- (c) state why the Commission has concluded that the individual has not demonstrated suitability for parole;*
- (d) provide guidance to the extent possible as to what the inmate can do to improve his or her likelihood of demonstrating suitability at his her or her next parole hearing, and make specific recommendations as to programming or treatment, as appropriate; and*
- (e) notify the inmate of the right to seek judicial review of the decision as permitted by law.*
- (f) When the Commission determines that an individual is nearing parole suitability, the Commission will so indicate and will recommend the individual progress to lesser security.*

(4) If the decision resulting from the hearing is to rehear the prisoner's case at a later date and if the parole rehearing is open to the public under COMAR 12.08.01, the rehearing may be held up to 90 days later than the rehearing date specified in the decision.

(5) When further information is deemed necessary, the Commission may defer its decision pending receipt of the same. A final decision shall be promptly rendered upon receipt of the information and shall be served as provided by law unless the Commission elects to promptly reinterview the inmate before making its decision. *If the Commission decides not to recommend parole for an inmate serving a life sentence for a crime committed under the age of 18, the Commission will give a copy of the decision to the juvenile lifer within 18 months of the parole hearing. The Commission will send a parole recommendation for an inmate serving a life sentence for a crime committed under the age of 18 to the Governor no later than 12 months after the parole hearing.*

(6) Information shall be disclosed to the inmate in accordance with Regulation .17C(5) of this chapter. *The Commission shall furnish timely written notice to an inmate serving a life sentence for a crime committed under the age of 18 if the Commission has ordered a risk assessment, received the risk assessment report, decided to consider the case en banc, and/or recommended parole to the Governor. . The Commission will not withhold from the individual or representative, if any, his or her status in the parole process.*

***(7) The Commission may neither permanently refuse parole to an inmate serving a life sentence for a crime committed under the age of 18, nor schedule any rehearing in excess of ten years from the date of the hearing.***

F. – I. (text unchanged)

12.08.01.23 Consideration and Review

B. (1)-(5) (text unchanged)

***(6) If the Governor disapproves the Commission’s recommendation to an inmate serving a life sentence for a crime committed under the age of 18, the Commission shall, after providing written notice to the individual, consider the inmate for parole en banc within eighteen months of the date of the Governor’s decision. The Commission shall recommend the inmate for parole unless the Commission finds good cause not to do so. If the Commission finds good cause not to recommend the inmate for parole, the Commission shall set forth its reasoning in its written decision.***

***(7) When the Governor has disapproved the Commission’s recommendation to approve an inmate serving a life sentence for a crime committed under the age of 18, two commissioners shall:***

***(a) ensure that the decision is hand-delivered to the inmate;***

***(b) explain the decision to the inmate;***

***(c) consider the individual for an explicit recommendation of progression to lesser security to the extent a positive adjustment at lesser security can help demonstrate parole suitability;***

***(d) provide guidance about what the inmate can do to improve the likelihood of demonstrating suitability for parole at the next parole hearing, and provide specific recommendations as to programming or treatment, as appropriate; and***

***(e) notify the inmate of the right to seek judicial review of the decision as permitted by law.***