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**IDAPA 50
TITLE 01
Chapter 01**

IDAPA 50 - COMMISSION FOR PARDONS AND PAROLE

50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE

000. -- 009. (RESERVED).

010. DEFINITIONS.

01. Abscond. To depart secretly. (7-1-93)
02. CWC - B. Community Work Center - Boise. (7-1-93)
03. CWC - N. Community Work Center - Nampa. (7-1-93)
04. Class B Parole. Unsupervised parole out of the State of Idaho. (7-1-93)
05. Commission Warrant. Warrant of arrest for alleged parole violation; issued by the Executive Director or a Commissioner. (7-1-93)
06. Commutation. Clemency powers granted to the Commission or Governor which allows for a sentence to be modified. (7-1-93)
07. Concurrent Sentence. Sentence which is served at the same time as another. (7-1-93).
08. Conditions of Parole. Conditions under which a prisoner is released to parole supervision. (7-1-93)
09. Consecutive Sentence. A sentence which will commence upon completion of another sentence. (7-1-93)
10. Detainer. To hold in custody for another jurisdiction. (7-1-93)
11. DOR. Disciplinary Offense Report. (7-1-93)
12. Early Parole Discharge. Release from further custody of parole supervision prior to the maximum expiration date and after statutory minimum of one (1) year has been completed. (7-1-93)
13. Escape. Flight from confinement. (7-1-93)
14. Fixed Term. Sentence for a fixed period of time, during which period the convicted person is not eligible for parole. (7-1-93)
15. Full Term Release Date. The date a prisoner completes the term of sentence for which committed, without goodtime credits. (7-1-93)
16. Goodtime Release Date. The date a prisoner completes the term of sentence, minus goodtime credits granted per statute when applicable. (7-1-93)
17. Hearing. A proceeding in which evidence - to include file material, letters, or other - and/or testimony is considered for use in decision-making. (7-1-93)
18. ICI - O. Idaho Correctional Institution - Orofino. (7-1-93)
19. IMSI. Idaho Maximum Security Institution (Boise). (7-1-93)

20. ISCI. Idaho State Correctional Institution (Boise). (7-1-93)
21. Institutional Parole. Parole granted to a consecutive sentence or term where the inmate/parolee remains incarcerated. If released to parole on the consecutive sentence, the parole becomes a regular parole. (7-1-93)
22. Jacket Review. Review of central file or Commission file and/or additional information submitted, without testimony or interview of inmate or parolee. (7-1-93)
23. NCIC. National Crime Information Center. (7-1-93)
24. NICI. North Idaho Correctional Institution (Cottonwood). (7-1-93)
25. Non-Restricted Sentence. Sentence not restricted by statute. (7-1-93)
26. On-Site Parole Violation Hearing. Parole violation hearing to determine guilt or innocence which may be held near the site of the alleged violation(s). (7-1-93)
27. Open Date. Tentative parole granted without setting a tentative parole date and subject to release by Commission authorization; a tentative parole date will become an open date if the tentative parole date passes. (7-1-93)
28. Pardon. To make allowances for a discourtesy; release from consequences or a wrong act. (7-1-93)
29. Parole. Conditional release from a penal institution and under a contractual agreement between the Commission of Pardons and Parole and a convicted felon. Parole is not a right, but is a matter of grace. (7-1-93)
30. Reprieve. Temporary suspension of the execution of sentence; to delay a punishment. (7-1-93)
31. Respite. A period of temporary delay; to put off. (7-1-93)
32. Restricted Sentence. Sentence restricted by Idaho Statutes by either carrying a mandatory minimum to serve prior to parole eligibility, or being a fixed term, etc. (7-1-93)
33. Return of Service. Documents to be served on alleged parole violator at the time he is served with specific charges of parole violation - describes hearings the subject is entitled to. (7-1-93)
34. Revocation File. A file containing the documents pertinent to a particular violation/revocation proceeding. (7-1-93)
35. SAWC. St. Anthony Work Camp. (7-1-93)
36. SICI. South Idaho Correctional Institution (Boise). (7-1-93)
37. Statutory Release Date. Maximum full-term expiration date, minus any goodtime credits accumulated during incarceration. (7-1-93)
38. Substantive Conditions of Parole. Conditions of parole which relate to the rehabilitation of a parolee (performance of community service, use of alcohol, use of a motor vehicle, limitations on financial matters, etc.). (7-1-93)
39. Technical Violation. Violation of parole by not conforming to rules of parole - not to include absconding and new criminal conviction. (7-1-93)
40. Victim. As described by Section 19-5304, Idaho Code, "Shall mean a person or entity, named in the complaint, information or indictment, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in

homicide cases." (7-1-93)

011. -- 099. (RESERVED).

100. GENERAL PROVISIONS.

The rules contained herein govern practice and procedure of the Idaho Commission for Pardons and Parole, hereafter referred to as the Commission. However, the Commission reserves the right to deviate from these established policies and procedures whenever special circumstances warrant, and to act, at its discretion, in circumstances not specifically outlined by policy and procedure, but within confines established by the Constitution and statutes. (7-1-93)

01. Open Session. All hearings are conducted in open session, with deliberations and voting conducted in Executive Session, with Commission staff present, as requested. (7-1-93)

02. Meetings Held. The Commission shall meet at such time and places as a majority of the members request, or at the call of the chairperson and in event, no less than quarterly. (7-1-93)

a. Quarterly sessions are usually scheduled for January, April, July, and October. (7-1-93)

b. Generally, all Commissioners are present at a quarterly session. However, a meeting will not be convened unless a quorum of three (3) members is present. (7-1-93)

c. Quarterly sessions are generally reserved for consideration of Pardons, Commutations, and Remission of Fines and Forfeitures. However, the Commission reserves the right to conduct parole hearings, parole revocation hearings and resolve other matters which are commonly addressed at monthly meetings. (7-1-93)

d. Quarterly sessions are generally reserved for parole consideration for violent and/or sex crimes as enumerated in Idaho Code 20-233. (7-1-93)

03. Monthly Meetings. The commission generally schedules regular monthly meetings in addition to the quarterly session. (7-1-93)

a. A monthly session may be canceled per the vote of a majority of the members or it may be canceled by the Executive Director if it is determined there will be a quorum of the Commission available for the session. (7-1-93)

b. A schedule of sessions is established prior to the beginning of each calendar year and will be published. (7-1-93)

c. During a meeting not classified as a quarterly session at least three (3) members will be present. (7-1-93)

i. A majority vote of three (3) of the Commission members is necessary for all decisions. (7-1-93)

ii. If a vote of three (3) of the members is not reached, the case will be continued to the next quarterly session. (7-1-93)

d. The Chairperson or Vice-chairperson will conduct the meetings and/or sessions unless circumstances prohibit his attendance. The Chairperson or designee will determine if the meeting or session will be held. Notice of a canceled meeting or session will be provided to all interested persons, as time permits. (7-1-93)

04. Open Meeting Law. Summary minutes of all meetings of the Commission and of individual hearings will be maintained in the Commission office as public information. (7-1-93)

a. Summary minutes of meeting of the Commission will be reviewed for changes and approval by the Commissioners who are present at the next quarterly session, and will be signed by the Executive Director and the Commission Chairperson, Vice-Chairperson, or a Commissioner. (7-1-93)

- i. Minutes will be reviewed by the Commissioners present at the next quarterly session for changes and approval. (7-1-93)
- ii. Following approval, the minutes will be signed by the Executive Director and/or the Commission Chairperson, Vice-Chairperson or other Commissioner. (7-1-93)
- b. Summary minutes of individual hearings conducted during a session will be maintained according to Rule 200.06. (7-1-93)
- 05. Previous Decisions. The Commission reserves the right to review or reconsider any of its previous decisions for any reason. (7-1-93)
- 06. Phone Poll. In extraordinary circumstances, the Executive Director may conduct a phone poll of the Commission to obtain a majority vote regarding a case in which a decision must be made prior to the next session of the Commission. (7-1-93)
- 07. APA Applicability. The Commission shall have the power to establish rules under Chapter 52, Title 67, Idaho Code (Administrative Procedures Act). No other provision or requirement of the Administrative Procedures Act shall apply to the Commission. (7-1-93)

101. -- 149. (RESERVED).

150. COMMISSION AND STAFF.

- 01. Composition. The Commission is composed of five (5) members and the members may be appointed to fill vacancies of unexpired terms or for the full five (5) year terms, depending on the time of appointment; current members of the Commission may be reappointed at the expiration of their term. (7-1-93)
 - a. Appointments to the Commission are subject to the advice and consent of the Senate during the next legislative session following the appointment. (7-1-93)
- 02. Elections. The members of the Commission will elect one (1) of its members as Chairperson, and one (1) of its members as Vice-Chairperson, annually. (7-1-93)
 - a. Selection will generally be made during the month of July; if a session is not conducted during that month, selection will be made the following month or quarterly session. (7-1-93)
 - b. Selection shall be by majority vote of the Commissioners. (7-1-93)
 - c. The chairperson or Vice-Chairperson shall serve until a successor is elected. (7-1-93)
 - d. If either Chairperson or Vice-Chairperson shall leave office prior to the expiration of the term for which he was elected, the Commission shall, at its next quarterly session, elect another of its members to serve until the July session or succeeding session as may be necessary. (7-1-93)
- 03. Director. The Executive Director serves as a full-time employee for the Commission, and is both the official spokesperson and representative for the Commission and is the administrator responsible for the managing and conducting of normal daily business. The Commission does delegate the authority to approve conditions of parole as recommended by the Department of Correction or other responsible agency or official, either in-state or interstate, (refer to Rule 300.04.b.); and to issue and sign arrest warrants; to originate and sign parole release documents, and all other documents pertaining to Commission matters in regards to, but not limited to, Parole, Commutations, and Pardons, and Remission of Fines. The Executive Director shall assume all authority, functions and duties as may be delegated by the Commissioner Board of Correction. (7-1-93)
- 04. Performance of Duties. The Commission and staff subscribe to fundamental principles in the performance of duties as Commission members and staff, with a commitment to professional service. (7-1-93)

- a. A Commissioner or staff member will not act in his official capacity in any matter in which he has a personal vested interest which would impair objectivity. (7-1-93)
 - b. Official position will not be used to promote any partisan political purposes. (7-1-93)
 - c. No gift or favor will be accepted which might imply an obligation that is inconsistent with the objective exercise of professional responsibilities. (7-1-93)
 - d. There will be no discrimination against any inmate or parolee, employee or prospective employee or other persons, on the basis of race, sex, creed, or national origin. (7-1-93)
 - e. Integrity of private information will be maintained and case information will not be revealed to persons not having proper professional use for such information; personal data regarding inmates or parolees will not be sought beyond what is needed to perform job responsibilities. (7-1-93)
 - f. Relationships with colleagues and members of the criminal justice community will be of such character as to promote mutual respect within the profession and improvement of its quality of service. (7-1-93)
 - g. The Commission will be sensitive to the public's "right to know." Public information will be disseminated with openness and candor, when not prohibited by Statutes affecting confidentiality nor when the provider of information has indicated that the information should be maintained in a confidential manner; information regarding victims will be maintained in a confidential manner. (7-1-93)
 - h. Badges and identification cards are to be used in official capacity only in the performance of duty. (7-1-93)
 - i. Any disciplinary action for misconduct of a Commission member will be taken by the Board of Correction. Policies adopted by the Board of Correction will apply to the staff of the Commission. (7-1-93)
05. Contacts. Any contact(s) with a Commission member by the public which concerns parole, pardon, commutation, or parole revocation decisions on a particular inmate or parolee, should be forwarded or referred to the Commission staff for distribution to all Commission members. (7-1-93)

151. -- 199. (RESERVED).

200. HEARING PROCESS.

- 01. Scheduling of Meetings and Sessions of the Commission. (7-1-93)
 - a. Purpose: To give notice to the public of regular sessions and/or meetings set by the Commission for the conducting of business with regards to parole hearings, parole revocation hearings, commutation hearings, pardon hearings, quarterly meetings, etc., and to allow for the public to attend such sessions and/or meetings. (7-1-93)
 - b. A schedule of a calendar year regular sessions and scheduled quarterly meetings will be published by January 1 of each year in a newspaper of general circulation at Boise, Idaho. (7-1-93)
 - c. A tentative monthly schedule of the date and time of individual hearings, to include all types of scheduled hearings, and/or an agenda of a scheduled meeting will be sent to all institutions, work centers, and divisions of the Board of Correction for distribution and posting; the Administrator of the Supreme Court; the Attorney General; the Chairperson of the Senate Judiciary and Rules Committee and Chairperson of the House Judiciary, Rules and Administration Committee; to the Governor's office; to other members of the legislature, news media personnel, and other members of criminal justice components who make a request. (7-1-93)
 - i. A tentative schedule of the date and time for each hearing will be available by the tenth (10th) day of each month. (7-1-93)
 - ii. The schedule is submitted to all institutions and work centers in order that Corrections personnel

will be prepared for hearings and that inmates will have notice of the date and time of their hearing. (7-1-93)

iii. This schedule is subject to change at any time and revisions will be made as needed to update necessary changes, add revocation hearings, or other. (7-1-93)

iv. Due to the nature of the hearings, security and other unknown circumstances, the scheduled time for any particular hearing may deviate and hearings may be heard before or after the specific date and time. (7-1-93)

v. It shall be the responsibility of persons interested in a particular hearing to contact the Commission staff five (5) days in advance of the session to verify the date and time of the hearing and to advise of their interest in attending the hearing. (7-1-93)

vi. A monthly listing of individual parole hearings will be distributed to all District Court Judges and to all County Prosecutors and Sheriffs. (7-1-93)

vii. A copy of the notice to publish regarding applications for pardons or commutations will be mailed to each County Prosecutor of any county from which any such person was committed to the penitentiary. (Refer also to Rule 450 and Rule 550) (7-1-93)

02. Location of Hearings. Hearings will generally be conducted at a correctional/prison facility in the Boise, Idaho area. (7-1-93)

a. Efforts will be made to conduct hearings on an annual basis at the Idaho Correctional Institution - Orofino (ICI-0) or North Idaho Correctional Institution (NICI). (7-1-93)

b. Inmates not housed at the designated hearing facility may be transported to the facility for their hearings, or the hearing may be conducted by conference call. Inmates serving a sentence for a violent crime or a sex crime may be interviewed during any month; however, the parole decision may be deferred to a quarterly session of the Commission for deliberation and review of the hearing summary. (7-1-93)

c. All hearings and meetings are open to the public, with decisions, deliberations, and voting being conducted in Executive Session. Other procedural matters will comply with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code. (7-1-93)

i. The Commissioners, Commission staff and designated others will not reveal information as outlined in Section 20-213 A., Idaho Code, regarding deliberations, voting (other than the final decision reached), or other matters discussed in Executive Session. (7-1-93)

ii. Voting records will be maintained in a confidential manner in the Commission office for release only to those persons as provided for in Section 20-213 A., Idaho Code. (7-1-93)

03. List of Inmates. A list of inmates scheduled for parole hearings will be submitted to counseling and psychological staff three (3) months in advance of the scheduled hearings and will be updated on a monthly basis as necessary to provide counselors or social workers and psychological staff proper notification for preparation of reports. (7-1-93)

a. Parole Hearing Report. (7-1-93)

i. Social workers or counselors or designated others at all Idaho institutions and work centers will prepare a report for each parole hearing as designated by the Commission. (7-1-93)

ii. Reports are due by the first week of the month of the scheduled session. (7-1-93)

b. Psychological Reports. (7-1-93)

i. A psychological report is required by Section 20-223, Idaho Code, for parole consideration on sex offenders. (7-1-93)

ii. The Commission may require a psychological report on any inmate at its discretion or at the discretion of the Executive Director. (7-1-93)

c. Reports will be maintained in a confidential manner. (7-1-93)

04. Primary Review. A primary review will be conducted on every inmate that the Commission staff has knowledge of, following the sentencing and/or commitment and after the sentence has been computed by the Department of Correction; the purpose of the review is to schedule the initial parole hearing (if the inmate is eligible for parole), to advise of general criteria for parole consideration and the parole plan, and to advise of the commutation process. (7-1-93)

a. The Executive Director or designee will conduct such review (7-1-93)

b. The Executive Director will establish the setting of the initial parole hearing or give final approval if the review is conducted by a designated staff member. (7-1-93)

c. The Executive Director will determine how the review will be conducted. (7-1-93)

i. Reviews may be conducted in conjunction with a personal interview with the inmate. (7-1-93)

ii. A telephone conference call may be conducted with the inmate. (7-1-93)

iii. If a personal interview or a telephone interview is not conducted, written notice of the initial parole hearing, general criteria for parole consideration, including information regarding parole plans, and (7-1-93)

05. Initial Parole Hearing. The initial parole hearing will be conducted within a reasonable time after the inmate becomes eligible for parole and one (1) of the following has occurred: (7-1-93)

a. In cases of offenses committed on or after February 1, 1987, where a minimum fixed term has been specified by the sentencing court, a hearing will be scheduled within a reasonable time after the minimum period(s) of confinement is/are served. (7-1-93)

i. If an offense is subject to an enhanced penalty as provided by statute and a minimum period of confinement on such enhancement is specified by the sentencing court, the minimum period on the enhancement shall also be served before being considered for parole. (7-1-93)

ii. If a consecutive sentence(s) is imposed for multiple offense(s), and should each consecutive sentence contain a minimum fixed period of confinement, all minimum periods of confinement shall be served before any indeterminate periods commence to run. (7-1-93)

b. In cases of offenses committed prior to February 1, 1987, or offenses with no specified fixed minimum portion, the following table of standards will generally be followed in setting the initial parole hearing. Nonrestricted Sentences: (7-1-93)

LENGTH OF SENTENCE	TIME TO BE SERVED BEFORE INITIAL PAROLE HEARING
Three (3) Years or Less	Nine (9) Months
Three (3) Years, One (1) Month to Four (4) Years, Eleven (11) Months	Twelve (12) Months to Fourteen (14) Months

TABLE 1	
LENGTH OF SENTENCE	TIME TO BE SERVED BEFORE INITIAL PAROLE HEARING
Five (5) Years to Six (6) Years, Eleven (11) Months	Fifteen (15) Months to Nineteen (19) Months
Seven (7) Years to Nine (9) Years, Eleven (11) Months	Twenty (20) Months to Twenty-Three (23) Months
Ten (10) Years or More	Twenty-Four (24) Months
Sixteen (16) Years to Twenty-Five (25) Years, Eleven (11) Months	Thirty-Six (36) Months
Twenty-Six (26) Years to Life	Forty-Eight (48) Months
Life Sentence	Sixty-(60) Months

- (7-1-93)
- c. Fixed Sentence. (7-1-93)
 - i. Parole cannot be granted on a fixed sentence, therefore, no hearing will be set. (7-1-93)
 - ii. When more than one (1) sentence is being served concurrently and only one (1) sentence is a fixed sentence, the initial hearing will be scheduled within a reasonable time after the fixed sentence has been completed and the minimum period of confinement as specified by the sentencing court has been completed. (7-1-93)
- d. Concurrent Sentences. (7-1-93)
 - i. The initial parole hearing will be scheduled on the longest sentence, longest minimum portion, or the latest commitment. (7-1-93)
 - ii. When more than one (1) sentence is being served concurrently and only one (1) of those concurrent sentences has a minimum period of confinement, the initial hearing will be scheduled after parole eligibility has been reached. (7-1-93)
 - iii. Should one (1) of the concurrent sentences be a violent crime or sex crime, the parole hearing or decision will generally be scheduled for a quarterly session. (7-1-93)
 - iv. Should an inmate escape prior to the primary review, the review will be conducted after the Commission staff is advised of the inmate's return to custody. (7-1-93)
- 06. Designated Information. Designated information on each inmate, parole violator, or other, will be submitted to the Commissioners prior to a session so that the Commissioners receive advance notice and pertinent information to review. (7-1-93)
 - a. Information for parole hearings should include, but shall not be limited to the following when

available: presentence investigation report, parole hearing report, criminal record, sentence computation information, and prior parole hearing summary. (7-1-93)

b. Information for parole revocation hearings shall include, but shall not be limited to, the report of violation. (7-1-93)

c. Information for pardon, commutation, and remission of fine hearings shall include all available information pertinent to the hearing. (7-1-93)

06. Summary Minutes. Summary minutes of every hearing will be maintained in the Commission office in an orderly manner and will be available for public viewing. (7-1-93)

a. The Executive Director will approve all hearing minutes by affixing his signature. If the Executive Director is not available for an extended period of time, a Commissioner will approve the minutes or the Chairperson or the Vice-chairperson will designate a staff member to approve the minutes. (7-1-93)

b. A tape recording may be made of the hearings, but the tape will be disposed of following approval of the minute summary. (7-1-93)

c. Copies of minutes will be made only for official Commission files, for the Department of Correction's files, and other official business as determined by the Commission or staff, and a fee may be charged for any and all copies. (7-1-93)

201. -- 249. (RESERVED).

250. PAROLE HEARING.

01. Interview. The Commission will provide for the interview of the potential parolee. (7-1-93)

a. Inmates are not required to be present at their hearing. If an inmate declines to be present, the Commission may make a decision based on the available information or may continue the case to a later date. (7-1-93)

i. The inmate shall notify the Commission of the refusal, either orally or in writing. (7-1-93)

ii. If a physical or mental handicap prohibits an inmate's ability to appear, the hearing may be rescheduled or conducted by a conference call. (7-1-93)

iii. The record shall reflect the reasons the inmate did not appear at the hearing and the action taken by the Commission. (7-1-93)

b. Inmates housed in Idaho institutions and work centers will generally be transported to the hearing location by institutional staff or other transport. (7-1-93)

c. Hearings for inmates not housed in Idaho or who are housed in county jails will usually be conducted by telephone conference calls. (7-1-93)

i. It shall be the responsibility of the housing institution to notify the inmate of the specific hearing times as informed by the Commission staff. (7-1-93)

ii. In certain circumstances, a Commissioner or Executive Director may travel to the housing institution to conduct an interview and will prepare a report for decision-making at the next scheduled hearings. (7-1-93)

d. If a hearing is continued or rescheduled for a subsequent session, the following will apply. (7-1-93)

i. The Commission staff may notify the inmate directly. (7-1-93)

- ii. The Commission staff may notify Corrections staff at the housing facility. (7-1-93)
- iii. In cases when the Commission conducts a session in an area where the inmate is not housed and is not available for a short-term transport, the inmate may not be directly notified by the Commission staff but will be subsequently scheduled for a hearing within a reasonable time. (7-1-93)
- e. Security staff of the Department of Correction will provide adequate security during hearings, following established security procedures of the Department. (7-1-93)
- 02. General Procedure. Anyone wishing to testify at a hearing will abide by the following: (7-1-93)
 - a. Victims: Please refer to separate section, Rule 400. (7-1-93)
 - b. Persons who wish to testify must submit a request to the Commission office at least five (5) days in advance of the first day of the scheduled session. (7-1-93)
 - i. Requests may be verbal or in written form. If a written request is submitted, the Commission staff shall not be responsible for contacting the requestor to advise of the hearing date and time. (7-1-93)
 - ii. Anyone may call the Commission office during working hours. (7-1-93)
 - iii. The Executive Director or the Commission may elect to permit or to disallow testimony by witnesses who did not follow the above-described rule. (7-1-93)
 - iv. Should there be numerous witnesses present at a hearing, the Executive Director or the Commission may limit the number of witnesses who may provide., verbal testimony. (7-1-93)
 - c. Department of Correction employees must follow established policy and procedure of the Department of Correction for giving verbal testimony or providing written information, except as specifically requested by the Commission Or Executive Director. (7-1-93)
- 03. Attorney Appearance. Attorneys who wish to appear at hearings should notify the Executive Director of intended appearance at least five (5) days in advance of the hearing. (7-1-93)
- 04. Documentation. Letters or other information or documentation on a particular inmate may be submitted to the office of the Commission and may be either in support of parole, against parole, or for informational purposes only. (7-1-93)
 - a. Written documentation must be received at the Commission office at least seven (7) days in advance of the first day of a scheduled session to assure its inclusion. (7-1-93)
 - b. Written information which is received will be maintained for submission to the Commission at the time of the hearing and will subsequently be filed in the Commission file or the central file of the specific inmate. (7-1-93)
 - c. All letters or other material received which is intended for Commission use only regarding a particular inmate, and which has been indicated by the sender that the information is confidential, will, be marked and maintained as confidential. (7-1-93),
- 05. Granting Of Parole. Granting of parole depends exclusively upon the discretion of the Commission. (7-1-93)
 - a. The Commission can release an inmate on parole anytime after that inmate has become eligible for parole, or, not at all, and no prediction or representation of affected release dates should be made based upon parole hearing standards or criteria as described. (7-1-93)

- b. Parole consideration is evaluated by the individual merits of each case, which shall be decided by a majority of the Commission. (7-1-93)
06. Parole Consideration Criteria. General criteria has been established for parole consideration in addition to information and recommendations submitted per policy. (7-1-93)
- a. Seriousness and aggravation and/or mitigation involved in the crime. (7-1-93)
- b. Prior criminal history of the inmate. (7-1-93)
- c. The failure or success of any past probation and parole. (7-1-93)
- d. The inmate's institutional history. (7-1-93)
- i. Ability of the inmate to conform to established rules. (7-1-93)
- ii. Program(s) which the inmate participated in while incarcerated which are likely to assist him after release. (7-1-93)
- iii. The inmate's custody level at the time of the hearing. (7-1-93)
- iv. The inmate's behavior which involved institutional disorder or exploitation of other inmates. (7-1-93)
- e. inmate's involvement in jobs when available. (7-1-93)
- i. Evidence of the development of a positive social attitude and a willingness to fulfill the obligations of a good citizen. (7-1-93)
- iii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (7-1-93)
07. Disqualification. A Commissioner who could in any way benefit from the outcome of a case, or has had personal knowledge of a case which may affect making an objective decision, will disqualify himself from voting. (7-1-93)
- a. The voting record will reflect the name of the disqualified Commissioner(s), if any. (7-1-93)
- b. The hearing summary will reflect the name of the disqualified Commissioner(s), if any. (7-1-93)
08. Majority Vote. A majority vote of three (3) members of the Commission is required in all decisions when considering parole. (7-1-93)
- a. If less than five (5) members of the Commission are present, and a majority vote of three (3) members cannot be reached, the case will be continued to the next quarterly session. (7-1-93)
- b. If a majority vote of the members remaining cannot be reached, the case will be scheduled for a new hearing in one (1) year. (7-1-93)
09. Form of Decision. Decisions may be given orally to the inmate following the hearing and the inmate will not be permitted to present further arguments or testimony, and/or written notice of the decision may be submitted by the Commission staff following the hearing. (7-1-93)
10. Rules of Conduct at Hearings. (7-1-93)
- a. All persons attending hearings will conduct themselves in a respectful manner and will not disrupt the proceedings. (7-1-93)

- b. In compliance with the Idaho Indoor Air Act, smoking is not permitted in the hearing room, hallways, restrooms, or the lobby area of the hearing facility. (7-1-93)
- c. No food or drink will be allowed in the hearing room during the hearings, other than refreshments provided to the Commissioners, staff, and designated others. (7-1-93)
- d. Purses and other belongings shall be left in locked vehicles and not brought into the institution. (7-1-93)
- e. No testimony will be permitted by visitors without prior permission of the Executive Director, or at the request of the Commissioners. (7-1-93)
- f. Media personnel will not be allowed to utilize the meeting area, which may disrupt the hearing, to interview inmates, attorneys, or witnesses prior to, during, or after the hearing. Arrangements for interviewing the Commissioners or staff should be made in advance. (7-1-93)
- g. No one under sixteen (16) years of age will be allowed to attend the hearings without the prior approval of the Executive Director or the Commission. (7-1-93)
- h. Visitors will be properly groomed: No tank tops, halter tops, see-through clothing, mini-skirts, minidresses, bare midriffs, cutoffs, shorts, or bare feet will be allowed. (7-1-93)
- i. Visitors and media personnel may be screened through metal detectors and are subject to search per Department of Correction policy. (7-1-93)
- j. Visitors and media personnel violating these rules of conduct may be removed for at least the remainder of the day. Rules will be enforced at the direction of the Commission or security staff and, if not adhered to, the proceedings will be stopped and will commence only at the direction of the Commission. (7-1-93)
- k. There will be no physical contact between visitors and inmates/parolees at any parole or other hearing. (7-1-93)

251. -- 299. (RESERVED).

300. PAROLE.

- 01. General. The Commission may establish rules and conditions upon which a person may go on parole, and the Idaho Board of Correction is charged with the authority to supervise parolees and impose supervisory standards. (7-1-93)
- 02. Application. General rules and conditions of parole have been adopted by the Commission to be applied in all cases and shall pertain to all parolees. (7-1-93)
 - a. The parolee will go directly to the destination approved by the Commission for Pardons and Parole and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice. Any deviation in travel plans will require prior permission from the Commission staff. (7-1-93)
 - b. The parolee shall: (7-1-93)
 - i. Work diligently in a lawful occupation or a program approved by the Commission or supervising officer and not change employment or designated program without written permission from the Commission or supervising officer; (7-1-93)
 - ii. Support dependents (if any) to the best of his ability; and (7-1-93)
 - c. The parolee shall submit a complete and truthful report to the assigned parole officer, or other

person designated by the Commission, on forms available, before the fifth (5th) day of each month, or as otherwise instructed. (7-1-93)

d. If at any time it becomes necessary to communicate with the 'assigned parole officer or other official designee and he is unavailable, communication will be directed to the district supervisor. (7-1-93)

e. The parolee will: (7-1-93)

i. Obey all municipal county, state, and federal laws; (7-1-93)

ii. Conduct himself in a manner which is not, nor intended to be, harmful to himself or others; (7-1-93)

iii. Follow written or oral instructions of the parole officer or Parole Commission; (7-1-93)

iv. Not purchase, own, sell, or have in his possession or control, to include storing in residence, vehicle, etc., any type of 'firearm for whatever purpose; (7-1-93)

v. Not have any dangerous weapon used or intended to be used for other than normal or usual purposes, such as knives for household use. (7-1-93)

f. The parolee shall: (7-1-93)

i. Abstain from excessive use of alcoholic beverages; (7-1-93)

ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner; (7-1-93)

iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol or narcotics, which may be at parolee's expense; (7-1-93)

iv. Participate in treatment programs as specified by the Commission or ordered by the parole officer. (7-1-93)

g. Parolee is fully advised that written permission is required for the following: (7-1-93)

i. Willfully changing job; (7-1-93)

ii. Willfully changing residence; or (7-1-93)

iii. Leaving assigned district or the State of Idaho. (7-1-93)

h. Parolee will submit to a search of person or property to include residence and vehicle, at any time and place by any agent of Field and Community Services and he does waive constitutional right to be free from such searches. (7-1-93)

i. The parolee will make himself available for supervision and will not actively avoid supervision. (7-1-93)

03. Detainer. If a State, County, Federal, or other type of detainer has been lodged against an inmate and parole is deemed appropriate, the Commission may grant a parole release to the detainer. (7-1-93)

a. If the detaining jurisdiction removes the detainer prior to the inmate's release to that detainer one (1) of the following procedures will be followed. (7-1-93)

i. The Commission may consider the parole grant null and void and a new parole hearing may be

scheduled. (7-1-93)

ii. The Commission may conduct a review of the inmate's file and may elect to grant a regular parole. In this case, notification will be given to the inmate to submit a parole plan to be investigated. (7-1-93)

b. If an inmate is paroled to a detainer and is legally released from that detainer prior to the expiration of the Idaho sentence, the parole becomes a regular and supervised parole subject to all standard conditions of parole. In addition, the parolee must: (7-1-93)

i. Report immediately to the nearest adult probation and parole office for instructions. (7-1-93)

ii. Contact the Executive Director within five (5) days of release and notify the Executive Director of the parolee's address, employment, or other pertinent information. (7-1-93)

iii. If the parolee was paroled to an immigration detainer and deported outside of the United States, the parole becomes an active and supervised parole only if the parolee returns to the United States prior to the expiration of his sentence. (7-1-93)

c. The Commission will make an effort at the time of the parole hearing to determine if the inmate will waive extradition to an out-of-state jurisdiction who may have lodged a detainer. (7-1-93)

04. Special Conditions. The Commission, in addition to general rules of parole, may add special conditions and does delegate to the Executive Director the authority to add special' conditions to the parole contract which are appropriate in a prospective parolee's case; special conditions may be added, based upon past and present behavior and probability of future behavior in individual cases. (7-1-93)

a. At the time of the parole hearing, the Commission may add relevant special conditions. (7-1-93)

b. If special conditions are recommended or viewed as important by field staff following the investigation of a parole plan, a prosecutor, or other official, the Executive Director can approve the additional conditions subject to the following: (7-1-93)

i. If the prospective parolee agrees to the additional special conditions as approved by the Executive Director, the additional special condition(s) will become a part of the parole agreement/contract just as if the Commission had ordered them. (7-1-93)

ii. If the prospective parolee does not agree to the additional special condition(s) as approved by the Executive Director, the subject will be scheduled for a new parole hearing before the Commission at the next regularly scheduled session. (7-1-93)

iii. In the absence of the Executive Director, a designee may follow the above as outlined in Rule 300.04.b.i. and Rule 300.04.b.ii should the prospective parolee agree to the additional special condition(s), the designee will then contact a Commissioner for confirmation to approve the special conditions and such confirmation will be documented. (7-1-93)

c. After a parolee has been released and problems or violations arise in the case, the Executive Director shall be notified b' a special progress report from the supervising district if a report of violation has not been submitted. Special condition(s) or placement on the intensive supervision program may be requested. (Rule 400.07, reference special progress reports.) (7-1-93)

05. Intensive Supervision -- General. The Parole Commission reserves the right to impose a program of Intensive Supervision, designed by the Department of Correction. (7-1-93)

a. All persons placed on Intensive Supervision will sign an Intensive Supervision Contract. (7-1-93)

b. The conditions of Intensive Supervision consist of, but are not limited to, the following: (7-1-93)

- i. The parolee must live in a specified geographical area and not leave that area without written permission of the Intensive Supervision Program staff. (7-1-93)
 - ii. The parolee will remain alcohol and drug free and not enter any place where alcohol is the main source of income. (7-1-93)
 - iii. The Parolee will submit to tests for controlled substances or alcohol at parolee's expense upon entering the program, and submit to tests throughout the period of Intensive Supervision Program. (7-1-93)
 - iv. The parolee will remain at place of residence at all times, except when indicated by the Intensive Supervision Program schedule; any deviation from this rule requires prior approval by Intensive Supervision Program staff. (7-1-93)
 - v. The parolee will not operate or be a passenger in any private vehicle other than those reported to Intensive Supervision Program staff. (7-1-93)
 - vi. The parolee will not enter into any financial agreement which requires installment payments without written permission of the Intensive Supervision Program staff. (7-1-93)
 - vii. The parolee will formulate and follow a monthly financial budget and review that budget on a monthly basis with supervising officer or designated Intensive Supervision Program staff. (7-1-93)
 - ix. The parolee will report to supervising officer on dates and time specified by supervising officer. (7-1-93)
 - x. The parolee will make payments toward any court costs, fines, restitution, and supervision fees by the tenth (10th) of each month. (7-1-93)
 - xi. The parolee will complete eighty (80) hours of community service while in the program. (7-1-93)
06. Intensive Supervision Program Description. Intensive Supervision is a program designed for high accountability. The program allows the Department of Correction to impact those individuals coming into the system at a very high accountability level. These individuals will have their behavior controlled in a very strict and rigid manner until such time as they show they can be supervised at a lower level while in the community. (7-1-93)
- a. Prospective individuals are selected for the program by the Intensive Supervision Screening Committee, composed of Section Supervisor, Intensive Supervision Officers, and other personnel as assigned. The screening process may include: (7-1-93)
 - i. Review of the Presentence Investigation. (7-1-93)
 - ii. Circumstances of the present offense. (7-1-93)
 - iii. Criminal history. (7-1-93)
 - iv. A Risk and Needs Assessment. (7-1-93)
 - v. Review of the parole plan. (7-1-93)
 - vi. Offender's willingness to participate in the Intensive Supervision Program. (7-1-93)
 - vii. Psychological Evaluation (optional). (7-1-93)
 - viii. Review of other pertinent data. (7-1-93)
 - b. Intensive Supervision is a program of the Probation and Parole classification categories and is separated into two (2) phases. The minimum time an offender may successfully spend in the Intensive Supervision

program is four (4) months; the maximum time is six (6) months. If a client is violated and returns to supervision after being heard by the Court or the Commission, he will be placed back into the program at Phase I for an additional four (4) to six (6) months. (7-1-93)

- c. Supervision Standards: Phase I - - two (2) to six (6) months. (7-1-93)
- i. Clients will meet with the Intense Team and a daily activity program/schedule will be established. The client will be held strictly accountable for adhering to the schedule. (7-1-93)
- ii. Initial contact will be made with client's family (if available) within the first ten (10) days of supervision to explain Intensive Supervision Programs, staff expectations regarding parolee's program participation, and to elicit family cooperation. (7-1-93)
- iii. Face-to-face contact with the client. The Intensive Supervision Team will personally make contact with the subject a minimum of Seven (7) face-to-face contacts per team per week, covering both day and night hours as well as the weekend. Four (4) of those face-to-face contacts will be home visits. (7-1-93)
- iv. Employment verification (once per week). This can be accomplished through phone calls and review of client's check stubs, with the officers making at least one (1) monthly contact with the employer (if necessary) to assess client's job performance. (7-1-93)
- v. Verification of employment seeking by the unemployed parolee. The unemployed client is required to present verification of job searching beginning at 8:00 a.m. each weekday, unless otherwise instructed by his officer. Verification that the client has made contact with the prospective employer can be accomplished in several ways: Have parolee submit a duplicate job application for agencies, businesses, and companies applied to the Intensive Team; Have the client submit a statement signed by the representative of the respective employer; or Phone contact at the location where the parolee states he applied. Client must obtain employment within thirty (30) days (with a two (2) week review), or could be dropped from the program. (7-1-93)
- vi. Curfew: The Intensive Supervision Team sets curfew hours which correspond with the subject's Risk and Needs Evaluation and work hours. These curfew hours must be randomly checked a minimum of four (4) times per week. An example would be: The subject must be in his home by 7:00 p.m. in the evening and is not allowed to leave prior to 6:00 a.m. in the morning. These curfew hours may be adjusted per agreement with the Section Supervisor. (7-1-93)
- vii. Law Enforcement Notification: A list of parolees on Intensive Supervision is given to local law enforcement agencies on a monthly basis in order to solicit their assistance in providing a more thorough surveillance. This list should be utilized only for the purposes of communicating the activities of the clients as identified on the list to the Intensive Officer Teams. (7-1-93)
- viii. Local Records Checks: Intense Officers will make a check of arrest records every two (2) weeks and make sure offenders are arrest free. (7-1-93)
- ix. Community Service: All Intensive Supervision clients are required to perform a minimum of fifty (50) hours of community service in Phase I and thirty (30) hours in Phase II, for a total of eighty (80) hours. This is to be monitored by the Intensive Team. (7-1-93)
- x. Financial Obligations: All offenders owing fines, restitution, or other financial obligations as recognized by the Court or Commission, shall be responsible for making regular monthly payments to these fines or restitution. Offenders will also be required to pay the Cost of Supervision Fee as identified under Section 20-225, Idaho Code. (7-1-93)
- xi. Drugs or Alcohol Tests: All clients will be subject to a blood alcohol or intoxilizer test and/or a urinalysis and will be expected to pay for such testing themselves. Offenders will be expected to be completely drug and alcohol free while in the Intensive Program. (7-1-93)
- xii. Travel will be restricted. If travel is permitted, offender must be in Phase II and must have

requested a Travel Permit forty-eight (48) hours prior. Overnight travel generally will not be permitted. Medical and family emergencies will be considered on a case-by-case basis. (7-1-93)

xiii. After minimum of two months, supervision can be reduced to Phase II if the client is responding positively, if he has completed fifty (50) hours of community service, if he has remained arrest free, acquired stable employment, remained drug free, and is approved for such a move by the Intensive Team. (7-1-93)

d. Supervision Standards: Phase II. (7-1-93)

i. Face-to-face contact can be reduced to a minimum of four (4) times per week (three (3) must be home visits). (7-1-93)

ii. Employment verification (same as Phase I). (7-1-93)

iv. Community Service: The subject must participate in a minimum of thirty (30) hours of community service. (7-1-93)

v. Local Records Checks (same as Phase I). (7-1-93)

vi. Law Enforcement Notification (same as Phase I). (7-1-93)

vii. Financial Obligations: All offenders owing fines, restitution or other financial obligations as recognized by the Court or Commission, shall be responsible for making regular monthly payments to these fines or restitution. Offenders will also be required to pay the Cost of Supervision Fee as identified under Section 20-225, Idaho Code. (7-1-93)

viii. Drugs or Alcohol Test: All clients will be subject to a blood alcohol or intoxilizer test and/or a urinalysis and will be expected to pay for such testing themselves. Offenders will be expected to be completely drug and alcohol free while in the Intensive Program. (7-1-93)

e. After four (4) months (having completed Phase I and II), or at the end of a six (6) month time span, the client is eligible for review and transfer to regular supervision. When released from Intensive Supervision, the client will again be given a Risk and Needs Assessment and classified according to the score on that instrument. (7-1-93)

f. Throughout the phases of Intensive Supervision, certain control factors are built in which help to control the subject's behavior. In the case of minor technical violations, the Court or Parole Commission may be advised of these technical violations. Minor violations can be handled through an informal disciplinary process within the Intensive Supervision Program. (7-1-93)

g. The Section Supervisor will act as the Hearing Officer and if a violation took place, have authority to give sanctions. In those cases where violations are more serious, a formal (progress or violation) report is submitted to the Judge or Parole Commission. (7-1-93)

07. Special Progress Report -- General. A special progress report may be submitted regarding a parolee by field supervision staff to request a change or modification of a special condition(s) or to advise of problems that have developed and the remedies that have been applied. A special progress report by field supervision staff may advise of the following: (7-1-93)

a. The parole officer may request a change or modification of a special condition which was ordered on a particular parolee. (7-1-93)

b. The parole officer may advise of problems in the case and action being taken. (7-1-93)

c. The parole officer may place the parolee on intensive supervision or may add special condition(s) subject to the following: (7-1-93)

- i. The report must contain the signature of the parolee, signifying that he agrees to intensive supervision or the additional special condition(s). (7-1-93)
 - ii. The report must contain the signature of the supervising officer or other assigned officer. (7-1-93)
 - iii. The report must contain the signature of the district manager or other approving authority of Field and Community Services. (7-1-93)
08. Special Progress Report -- After Receipt. Pursuant to receipt of a properly documented special progress report, the following will apply: (7-1-93)
- a. The Commission does delegate the Executive Director to approve or disapprove such addition of a special condition(s) or placement on intensive supervision prior to the next session of the Commission and such interim decision will remain in effect until the Commission takes action. (7-1-93)
 - b. Following receipt of the report, the Commission will review the report and may take one (1) of the following actions: (7-1-93)
 - i. May elect to ratify the additional special condition(s) and/or place the parolee on intensive supervision. (7-1-93)
 - ii. May delegate special condition(s) as requested. (7-1-93)
 - iv. May take no further action. (7-1-93)
 - v. May take other action as deemed appropriate. (7-1-93)
 - c. The parolee will be notified of the Commission's decision by letter, by verbal notification, or by the issuance of a warrant of arrest. (7-1-93)
09. Extraordinary Cases. In extraordinary cases, the Commission may elect to grant an unsupervised parole to a plan outside of the state of Idaho. (7-1-93)
- a. The parolee will comply with the general rules of parole and any special conditions ordered. (7-1-93)
 - b. Monthly reports and any communication will go to the Executive Director or other designated staff member. (7-1-93)
 - c. If the parolee returns to the State of Idaho, the following will be complied with: (7-1-93)
 - i. Within seventy-two (72) hours, report to the parole office nearest the place of Idaho residency and report the residence address. (7-1-93)
 - ii. Report by telephone or personal visit to the Executive Director, or other staff member of the Commission. (7-1-93)
 - iii. If permanent residency is intended, the parolee will be placed under parole supervision. (7-1-93)
10. Minimum Length Of Supervision. A parolee will be supervised for a minimum of twelve (12) months except when the maximum expiration is reached prior to the end of the twelve (12)-month period. (7-1-93)
11. Early Discharge From Parole. (7-1-93)
- a. A request may be made to the Commission to discharge a parolee prior to the maximum expiration date and shall be in written form. (7-1-93)

b. A parole officer or other agent as approved by the Commission may request the Commission discharge a parolee who is serving parole for a non-violent, non-sexual crime at the end of the minimum supervision period of twelve (12) months and before the maximum expiration date. (7-1-93)

c. A parole officer or other agent as approved by the Commission may request the Commission discharge a parolee who is serving a parole for a violent or sex crime at the end of one-third (1/3) of the remaining time from the parole release date to the maximum expiration date, or at the end of five (5) years on a life sentence. (7-1-93)

d. The Executive Director or other Commission staff may request the Commission discharge an unsupervised parolee without a written report. (7-1-93)

i. A request for early discharge shall include the history of the parolee's behavior while on parole. (7-1-93)

ii. A request for early discharge will be reviewed by the Commission at the next regularly scheduled session following receipt in the Commission office and must be received at the Commission office seven (7) days prior to the first day of the next session of the Commission or the review may be conducted at the following session. (7-1-93)

e. After reviewing the request for early discharge, the Commission will make a decision to grant the discharge or to continue the parolee on supervision. (7-1-93)

i. A majority vote of three (3) members of the Commission is required for a decision. (7-1-93)

ii. If a majority vote of three (3) members of the Commission cannot be reached, the request will be continued to the next quarterly session for a decision. (7-1-93)

f. Following a vote of a majority of the Commission to grant an early discharge, the discharge will not be effective until the official discharge document has been signed by the Executive Director or a Commissioner. Should adverse information be received by the Commission or its staff that was not available at the time of the decision, the following will apply: (7-1-93)

i. The official discharge document will not be signed by a Commission official and the discharge will be held until the next session of the Commission. (7-1-93)

ii. At the next session of the Commission, the Commission will review the original discharge request and the new information and determine whether or not to void the previous action. (7-1-93)

12. Institutional Parole. (7-1-93)

a. An inmate committed to the Idaho Department of Correction, and who has a consecutive sentence or term, may be eligible for institutional parole while remaining incarcerated. (7-1-93)

b. An inmate will be scheduled for a parole hearing following his commitment to the Department of Correction per Rule 200.04 without regard to the consecutive sentence or term. (7-1-93)

c. In considering an inmate for institutional parole, the same parole criteria will be considered as for regular parole per Rule 250.06. (7-1-93)

d. Institutional Parole may be considered at the discretion of the Commission. (7-1-93)

e. The central files on persons having been granted institutional parole may be marked in a fashion so as to notify the Commission of any disciplinary offense reports, adverse classifications, or other. (7-1-93)

f. While on institutional parole, the parolee/inmate is subject to all of the rules of the Idaho Department of Correction--or other states Correction's Department where the subject may be housed--as may exist at

the time of the parole grant or as may be amended, to include special conditions as ordered by the Commission. (7-1-93)

g. A Parole Hearing Officer, staff member or other designee as designated by the Executive Director or the Commission will supervise institutional parolees. (7-1-93)

h. The supervising officer or the Executive Director will determine when a report of violation will be submitted to the Commission. (7-1-93)

i. A report of violation may be based upon disciplinary offense report(s), adverse information not available to the Commission at the time of the institutional parole grant, false information given by the parolee, adverse classification, or other. (7-1-93)

ii. All established rules and procedures involved in the violation/revocation process as outlined in Rule 650 will apply. (7-1-93)

i. The Executive Director may appoint an institutional staff member, other Department of Correction staff member, or an employee of the paroling authority where the subject may be housed -- either in the State of Idaho or in another state -- to conduct a preliminary hearing should the parolee request such a hearing. (7-1-93)

j. The Executive Director will determine the site where the parole violation or revocation hearing will be held. (7-1-93)

k. If parole is revoked, per Idaho statutes, the time spent on institutional parole shall be forfeited; however, time served on the consecutive sentence or term will be credited when the consecutive sentence or term is again being served. (7-1-93)

l. The Executive Director, Commission(er), or other as designated by the Executive Director or Commissioner, will conduct the parole violation hearing. (7-1-93)

13. Conversion. Upon release from institutional custody on any subsequent parole and the institutional parole is still in effect at the time of the release, there will be an automatic conversion from institutional parole to regular parole, subject to all regular conditions of parole, any, special conditions as ordered by the Commission, and all rules established for parole release will apply. All release dates are tentative and the rule as outlined in Rule 750 will also apply to grants of institutional parole. (7-1-93)

14. Official Discharge. When the maximum expiration date has been reached and the parole is in effect without a Commission warrant having been issued, an official discharge document will be prepared within a reasonable time by the Commission staff and the signed document will be submitted to the parole officer, or other agent, or may be mailed directly to the last known address of the parolee. (7-1-93)

301. -- 349. (RESERVED).

350. BUDGET.

The Commission will have a clearly defined budget, providing for personnel, operations, travel and other anticipated miscellaneous costs within its administrative control and will provide for the reasonable payment for service of such technical and professional advice and consultation as the Commission may require. (7-1-93)

01. Preparation. The Executive Director will prepare the budget. (7-1-93)

b. The proposed budget will be discussed during the July session; if a session is not conducted during July, the Commissioners will notify the Executive Director of any comments or revisions they may have within a week following receipt of the proposed draft. (7-1-93)

c. A majority of the Commission may approve the budget; if a majority of the Commission is not available, the Commission Chairperson or Vice-Chairperson may approve the budget, following Rule 350.01.a. and 350.01.b. (7-1-93)

02. Presentation -- Board of Corrections. The Executive Director, a Commissioner or a designee, will present the budget to the Board of Corrections. (7-1-93)

03. Presentation -- Legislature. The Executive Director and/or the Commission Chairperson or Vice-Chairperson will present the budget to legislative committees and will be available to respond to questions regarding the budget presented by the office of the Governor and legislative committees. (7-1-93)

04. Responsibilities. The Executive Director is responsible for the preparation, monitoring, the execution of the budget, and for maintaining such records as necessary. (7-1-93)

351. -- 399. (RESERVED).

400. VICTIMS.

01. Felony Crimes. Victims of felony crimes for which a criminal complaint was filed on or after October 1, 1985, and for which an inmate was committed to the institution as a result of the crime, will receive notification of parole hearings or, other hearings and parole release dates prior to expiration of the sentence and will be afforded the opportunity to address the Commission per Idaho Statutes. (7-1-93)

02. Notice Of Hearing. Notice of parole hearings or other hearings conducted by the Commission or tentative parole release dates prior to the expiration of the sentence on the particular inmate, will be sent by the Commission staff to the victim(s), at the last known address, advising of the date of the scheduled hearing or the month and year of the tentative release. (7-1-93)

a. If the victim requests to testify at a hearing, the request shall be made to the Executive Director five (5) days in advance of the first day of the scheduled session. The time limit may be extended at the direction of the Executive Director. (7-1-93)

b. A victim may submit written information or statements to the Executive Director to be reviewed at scheduled hearings, and such information or statements shall be received at the Commission office seven (7) days in advance of the first day of the scheduled session. The time limit may be extended at the direction of the Executive Director. (7-1-93)

03. Notice of Release Date. Notice of the month and year of the tentative parole release date which the Commission may have granted prior to the expiration of the sentence will be sent to the victim at the last known address. (7-1-93)

a. The Commission will not be responsible for notification of any Court-ordered release or an escape. (7-1-93)

b. The Commission will not be responsible for notification of an inmate's release upon completion of the sentence. (7-1-93)

04. Method of Notice. The Commission staff will send the above-described notices to the victim(s) to the last known address and it shall be the responsibility of the victim to notify the Commission staff of any and all address changes. (7-1-93)

05. Exceptions of Notice. The Commission shall not be responsible for the notification to the victim(s) of hearings and parole release dates should notice of such victim(s) not be submitted per Section 19-5036, Idaho Code. (7-1-93)

06. Other Victims. Other victims not included in Section 19-5306, Idaho Code, may be afforded the opportunity to present written or verbal testimony. (7-1-93)

a. Requests to provide personal testimony shall be made to the Executive Director five (5) days in advance of the first day of the scheduled session. The time limit may be extended at the direction of the Executive

Director. (7-1-93)

b. Written information or statements must be received at the Commission office seven (7) days in advance of the first day of the scheduled session. The time limit may be extended at the direction of the Executive Director. (7-1-93)

401. -- 449. (RESERVED).

450. COMMUTATION.

Commutation is a process whereby clemency may be granted to modify a sentence imposed by the sentencing jurisdiction, and the process requires both the submission of a Petition of Commutation and hearing. (7-1-93)

01. Form Of Petition. An inmate requesting a commutation shall submit a petition for commutation. The only acceptable form will be the form provided by the Commission which is available from the Commission staff or a social worker/counselor and must be completed per the instructions. (7-1-93)

02. Method of Petition. An inmate may submit a petition for commutation on the sentence for which clemency is requested twelve (12) months following the sentencing date on such sentence subject to the following: (7-1-93)

a. The inmate must have been incarcerated in an institution of the Idaho Department of Correction or as a transfer being held in another state or federal jurisdiction. (7-1-93)

b. If the inmate has been committed/sentenced to the Idaho Department of Correction but the commitment has been delayed and the inmate is housed in a county jail, the inmate may submit a petition for commutation, but must also provide the Commission a copy of the commitment order along with the petition. (7-1-93)

c. An inmate may submit a petition once every twelve (12) month period. (7-1-93)

d. The petition must include the reason(s) why the petitioner is requesting a commutation of his sentence and must state the precise sentence modification that is being requested. (7-1-93)

ii. The request may be to reduce the maximum sentence length. (7-1-93)

iii. The request may be to change a fixed sentence to an indeterminate sentence. (7-1-93)

iv. The request may be to change a sentence in another manner not described above. (7-1-93)

e. The petition may include letters from concerned individuals. (7-1-93)

f. The inmate will generally submit the petition. (7-1-93)

i. The Commission will not consider such a petition unless the signature of the petitioner is witnessed by the social worker/counselor or other official of the Department of Correction, Parole Commission, or a designee. (7-1-93)

ii. The form must be completed correctly or it may be returned. (7-1-93)

g. Legal counsel and law librarians may assist in the preparation of the petition. If legal counsel prepares the petition, the following must be complied with: (7-1-93)

i. The petition must be signed by the inmate or legal counsel must provide verification that he has been retained by the inmate or his family to prepare and submit the petition. (7-1-93)

ii. The form must be completed correctly or it may be returned. (7-1-93)

- h. If a law librarian assists in the preparation of or prepares the petition, the following must be complied with: (7-1-93)
- i. The petition must be signed by the inmate and such signature witnessed by the social worker/counselor, or other official of the Department of Correction, Parole Commission, or a designee. (7-1-93)
- ii. The form must be completed correctly or it may be returned. (7-1-93)
03. Review of Petition. Petitions are reviewed at quarterly sessions and the petition must be received at the Commission office no later than the first day of the month of a quarterly session or the petition may be held for review until the next quarterly session. (7-1-93)
- a. The petition will be reviewed without the petitioner present. (7-1-93)
- b. The Commission may continue consideration of the petition to a subsequent quarterly session to obtain additional information or for further consideration. (7-1-93)
- c. The Commission staff will notify the petitioner of the decision of the Commission to deny or grant a commutation hearing and, if granted, the month the hearing will be held. (7-1-93)
- d. A majority vote of the Commission is necessary to grant or deny a commutation hearing. (7-1-93)
04. Commutation Hearings. All commutation hearings, with the exception of death penalty cases, will be conducted at a quarterly session. A death penalty case may be considered at any time. (7-1-93)
- a. Notice shall be published in some newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks, immediately prior to the hearing. (7-1-93)
- b. A copy of such notice shall be mailed to each prosecuting attorney of the county from which any such person was committed, and notice may be forwarded to the sentencing court and sheriff of such county. (7-1-93)
- c. All policy and procedure governing the conduct of a parole hearing will apply to a Commutation Hearing. (7-1-93)
- d. A majority vote of the Commission is required for a decision. (7-1-93)
- i. Dissenting votes of the Commissioners voting are submitted to the office of the Secretary of State and become a matter of public record. (7-1-93)
- ii. All written material considered in the decision process of a commutation granted will be submitted to the office of the Secretary of State and become a matter of public record. (7-1-93)
05. Fixed Term Sentence. A fixed term sentence may not be commuted absent acquiescence or stated lack of objection by the sentencing judge or court. (7-1-93)
- a. The Commission staff will request input from the sentencing judge or court. (7-1-93)
- b. The Commission will consider any information from the sentencing judge or court. (7-1-93)
- c. Should the Commission receive no information, the Commission will take such action as a majority of the Commission determines. (7-1-93)
06. Approving and Granting -- Rare. Only rarely will circumstances be extraordinary enough to approve a petition for a commutation hearing or to grant a commutation. (7-1-93)
- a. The granting of a commutation hearing shall not be interpreted as intent to commute a sentence. (7-1-93)

- b. Habilitative progress alone will not be regarded as sufficient to grant a commutation hearing or to commute a sentence. (7-1-93)
07. Death Sentence. The following procedures shall be followed in the case of a person under sentence of death. (7-1-93)
- a. The Commission may review all files of inmates once every year. (7-1-93)
- b. An individual file of each inmate will be maintained in the Commission office and the status of each case shall be updated once per year by the Commission staff. (7-1-93)
- c. The Commission members will be given a packet of file material to be maintained confidentially and no information shall be released to anyone for any purpose. (7-1-93)
- d. At the time of the file review, the Commission may interview an inmate without activating the commutation process. (7-1-93)
08. Consideration. Commutation consideration must be initiated by the inmate or his legal counsel by the submission of a petition for commutation and must contain the signature of the petitioner or legal counsel must provide verification that he has been retained by the inmate or his family to prepare and submit the petition. (7-1-93)
- a. The petition may be reviewed without the petitioner present and a majority decision of the Commission is necessary to grant or deny a hearing. (7-1-93)
- b. Normal procedure as previously described will be followed except when state and/or federal remedies have been exhausted, and, in those cases, a petition may be submitted on any working day to the Commission office. (7-1-93)
- c. The Executive Director or a designee will ascertain the status of the particular case in the state or federal court appeals process. (7-1-93)
- d. Commissioners who are available will be contacted to obtain a majority vote to grant or deny a commutation hearing. (7-1-93)
- i. The Governor will be notified of the Commission's decision. (7-1-93)
- ii. The petitioner will be notified of the Commission's decision. (7-1-93)
- e. A special session may be called by the Commission to consider a petition, interview the petitioner, or to conduct a commutation hearing following statutory requirements. (7-1-93)
09. Authority To Grant. The Commission has full and final authority to grant commutations, except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of a controlled substance. (7-1-93)
- a. The Commission shall conduct commutation proceedings according to adopted rules. (7-1-93)
- b. With respect to commutation considerations for the offenses named in Rule 450.09, the Commission's determination to grant a commutation shall constitute a recommendation only, subject to approval or denial by the Governor. (7-1-93)
10. Summary Minutes. Following a commutation hearing, summary minutes of the hearing will be prepared. (7-1-93)
- a. A copy of the summary minutes and all information utilized by the Commission to reach their decision will be forwarded to the Governor in a timely manner. (7-1-93)

b. No commutation for offenses named in Rule 450.09. shall be effective until presented to and approved by the Governor, and any commutation recommendation not so approved within thirty (30) days of the commutation hearing shall be deemed denied. (7-1-93)

451. -- 499. (RESERVED).

500. SELF-INITIATED PROGRESS REPORT.

01. Special Parole Hearing. In the case where circumstances have substantially changed to the inmate's benefit after parole has been denied and either no action in his case is contemplated or the next parole consideration has been continued for a period in excess of six (6) months, an inmate may request the Commission to schedule a special parole hearing at an earlier date. (7-1-93)

02. Initiate of Process. The process is initiated by the inmate completing and submitting a Self-Initiated Petition form, stating reasons for reconsideration--the only acceptable form will be the form provided by the Commission and available from the Commission staff or a social worker/counselor. (7-1-93)

a. The petition may be submitted no sooner than six (6) months following the last hearing. (7-1-93)

b. Only one (1) special hearing will be permitted in any twelve (12) month period. (7-1-93)

c. Petitions are reviewed at quarterly sessions, without the presence of the petitioner, and should be received at the Commission office no later than the first day of the month of a quarterly session, or it may be held for review until the next quarterly session. (7-1-93)

d. A majority vote of the Commission is necessary to grant or deny a new hearing. (7-1-93)

e. The petitioner will be advised of the Commission's decision. (7-1-93)

f. If granted a special hearing, the hearing may be scheduled for any month and the petitioner will be notified of the month and year of the hearing. (7-1-93)

g. The Commission may continue consideration of the petition to a subsequent quarterly session to obtain additional information or for further consideration. (7-1-93)

h. The Commission will not consider such a petition unless the signature of the petitioner is witnessed by the social worker/counselor. (7-1-93)

03. Previous Decision. If a special hearing is scheduled, the previous decision of the Commission will be considered null and void. (7-1-93)

501. -- 549. (RESERVED).

550. PARDON.

A pardon may be considered for a person having been convicted of any misdemeanor or felony crime. (7-1-93)

01. General. Generally, an application for a pardon will not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (7-1-93)

a. Applications for pardon for non-violent or nonsexual crimes may be submitted for consideration three (3) years after discharge from parole or probation, a penal institution, or jail, or other such completion of the sentence. (7-1-93)

b. Applications for pardon for violent or sex crimes or crimes against a person may be submitted five (5) years after discharge from probation or parole, a penal institution, or jail, or other such completion of the sentence. (7-1-93)

02. Application. A pardon application can be obtained from the Commission office. (7-1-93)
- a. A completed application must be submitted to the Commission staff and shall include the reasons why the pardon is requested and may include letters of recommendation from responsible community members. (7-1-93)
- b. Following receipt of the completed application, the Commission staff will request that an investigation be completed, usually by correctional field personnel in the area in which the applicant resides, and shall include, but shall not be limited to the following: (7-1-93)
- i. A criminal record check of the applicant. (7-1-93)
- ii. The applicant's employment history since release from custody. (7-1-93)
- iii. The applicant's positive or negative status as a citizen. (7-1-93)
- iv. An interview with the applicant may be conducted and a summary provided. (7-1-93)
- v. Any additional information as deemed necessary or appropriate. (7-1-93)
03. Report. Pursuant to the receipt of the completed report, a hearing will be scheduled for the next quarterly session of the Commission, allowing sufficient time for statutory requirements. (7-1-93)
- a. Notice shall be published in a newspaper of general circulation at Boise, Idaho at least once a week for four (4) consecutive weeks, immediately prior to the hearing. (7-1-93)
- b. A copy of the above-described notice shall be mailed to each prosecuting attorney of the county from which any such person was sentenced or committed, and notice may be forwarded to the sentencing court and sheriff of such county. (7-1-93)
04. Hearing. The applicant's appearance at the hearing is not mandatory but is encouraged. (7-1-93)
- i. If the applicant cannot appear at the scheduled time and requests that he be present, the hearing may be continued to the next quarterly session without re-advertising. (7-1-93)
- ii. If the applicant does not appear at the hearing and has not advised the Commission staff of his desire to appear, the Commission may make a decision based on the available information. (7-1-93)
- iii. In some cases when the applicant does not appear, the Commission may specifically request the applicant's appearance. (7-1-93)
- iv. The hearing will be continued to the next quarterly session without re-advertising. (7-1-93)
- b. If the applicant does not appear at a subsequent hearing, the Commission may make a decision based upon the available information. The hearing will be conducted in the same manner as a parole hearing and all policies and procedures and rules of conduct will apply. (7-1-93)
05. Decision-Making. A majority vote of the Commission is required for a decision. (7-1-93)
- a. Dissenting votes of the Commissioners voting are submitted to the office of the Secretary of State and become a matter of public record. (7-1-93)
- b. All written material considered in the decision process of a pardon granted will be submitted to the office of the Secretary of State and become a matter of public record. (7-1-93)
- c. The applicant will be notified of the decision either verbally or by written notice. (7-1-93)

06. Authority. The Commission has full and final authority to grant pardons, except with respect to sentences for murder, voluntary manslaughter, rape, kidnapping, lewd and lascivious conduct with a minor child, and manufacture or delivery of controlled substances. (7-1-93)
- a. The Commission shall conduct pardon proceedings according to adopted rules. (7-1-93)
 - b. With respect to pardon requests for the offenses named in Rule 450.06. the Commission's determination to grant a pardon shall constitute a recommendation only, subject to approval or denial by the Governor. (7-1-93)
 - c. Following pardon hearing, summary minutes of the hearing will be prepared. (7-1-93)
 - i. A copy of the summary minutes and all information utilized by the Commission to reach their decision will be forwarded to the Governor in a timely manner. (7-1-93)
 - ii. No pardon for offenses named in Rule 450.06. shall be effective until presented to and approved by the Governor, and any pardon recommendation not so approved within thirty (30) days of the pardon hearing shall be deemed denied. (7-1-93)

551. -- 599. (RESERVED).

600. RECEIPTING AND ACCOUNTS RECEIVABLE.

The Commission of Pardons and Parole shall establish a uniform accounting system to assure that when fees are collected, all receipts are accounted for and deposited to the correct account. (7-1-93)

01. Fee. A fee per page may be charged for photocopies, a set fee will be charged for the policy and procedure manual. (7-1-93)
02. General. The Parole Commission staff will issue a receipt for all funds received as soon as the collection is made. Payment received by mail or in person will be endorsed to "State of Idaho, Commission for Pardons and Parole." Receipts will be completed as follows: (7-1-93)
- a. The date the monies were received. (7-1-93)
 - b. The source of the payment. (7-1-93)
 - c. The form of payment: cash, check, money order, or inmate voucher. (7-1-93)
 - d. The description of materials for which payment is made. (7-1-93)
 - e. The amount of money received. (7-1-93)
 - f. The signature of the person writing the receipt. (7-1-93)
03. Deposited Funds. Funds shall be deposited through the Board of Correction's business office, according to the following: (7-1-93)
- a. Daily, when the amount of cash, checks or other monies received accrued during any twenty-four (24) hours period is one hundred dollars (\$100) or more; or (7-1-93)
 - b. Weekly in all other situations. (7-1-93)
04. Receipts. Receipts will be given to those requesting materials in person at the time of the transaction, and sent along with the requested materials to those persons requesting such materials by mail. (7-1-93)

601. -- 649. (RESERVED).

650. PAROLE REVOCATION PROCESS.

01. Initiation. The parole revocation process may be initiated by the submission of a report of violation. (7-1-93)
 - a. Verbal information may be provided to the Executive Director to be followed by a written report. (7-1-93)
 - b. A report of violation shall be submitted to the Executive Director. Such report shall outline the rules violated and shall provide factual information to support the charges. (7-1-93)
02. Warrant of Arrest. A warrant of arrest of an alleged parole violator may be issued by the Executive Director, Commissioner, or other, as described below. (7-1-93)
 - a. A Commission warrant may be issued and signed by the Executive Director or a Commissioner when any information presented appears sufficient to indicate that parole conditions have been breached. (7-1-93)
 - i. This warrant shall be sufficient for law enforcement officers or corrections officials to execute the order to take such person into custody. (7-1-93)
 - ii. This warrant shall serve to suspend the person's parole until a determination has been made on the merits of the allegations of the violation, and until such person is arrested on this warrant, he shall be considered a fugitive from justice. (7-1-93)
 - b. Any parole or probation officer or community corrections officer may arrest a parolee or may deputize any other officer with the power of arrest to do so by giving a written statement setting forth the charges of how the parolee violated the conditions of his parole. (7-1-93)
 - i. Such written statement shall be sufficient warrant for the detention of the parolee. (7-1-93)
 - ii. The Idaho parole or probation officer or community corrections officer shall notify the Commission within a reasonable and prudent time of the arrest of the parolee and shall submit a written report outlining the charges alleged. (7-1-93)
03. Notification. The alleged parole violator will be notified in writing of the specific charges and his rights and privileges. (7-1-93)
 - a. Within fifteen (15) days following the arrest and detention on a Commission warrant, an official designated by the Commission or its staff will deliver a copy of the factual allegations to the alleged parole violator. (7-1-93)
 - b. The alleged parole violator will be advised of his rights regarding legal representation and witnesses. (7-1-93)
04. Hearings. The alleged parole violator may utilize the services of an attorney at any and all hearings involved in the revocation process. (7-1-93)
 - a. In most cases, the services of an attorney will be paid at the alleged parole violator's expense. (7-1-93)
 - b. The Executive Director, a hearing officer, or the Commission may appoint an attorney at Commission expense if it is determined that the alleged parole violator has a colorable claim that the alleged violation(s) did not occur, or that the alleged parole violator does not understand the proceedings or is otherwise incapable of representing himself. (7-1-93)

- c. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or any cancellation of hearings. (7-1-93)
- d. It is the responsibility of the alleged parole violator to provide his attorney with any and all reports and documents which he has received regarding the alleged violation(s). (7-1-93)
- e. The, alleged parole violator may appear and speak on his behalf. (7-1-93)
- f. The alleged parole violator may present witnesses who can refute the alleged charges or who can give relevant information regarding the charges and it is the alleged parole violator's responsibility to notify the witnesses of the date, time, and location of any and all hearings or any cancellation of hearings. (7-1-93)
- g. The alleged parole violator may confront and cross-examine any person(s) who has given adverse information on which allegations have been based. (7-1-93)
- i. In some circumstances, the personal appearance of a witness whom the alleged parole violator wants to cross examine may not be feasible, and such questioning may be conducted by telephone. (7-1-93)
- ii. The hearing officer, Executive Director, or the Commission may determine that the identification of the informant or witness would subject such person to risk or harm; in such a case, confrontation or cross-examination will not be allowed. (7-1-93)
- h. The Commission has no subpoena power and it is the responsibility of the alleged parole violator to have necessary witnesses present at any and all hearings. (7-1-93)
- i. Should an alleged parole violator's condition prevent his ability to assist in the defense of the case, the following will apply. (7-1-93)
- ii. A parole violation hearing may not be conducted in the normal timely manner; an update on the status of the alleged parole violator's condition will be made at reasonable intervals, but not less than once per month. (7-1-93)
- iii. A psychological evaluation may be requested for review as to his ability to participate in the defense of the case, and a determination will be made by the Executive Director or a Commissioner following receipt of the verbal or written report. (7-1-93)
- iv. In certain cases, the alleged parole violator may be admitted to State Hospital South or another facility to obtain proper psychological care. The facility will be notified by the Commission staff that the alleged parole violator is not to be released except to the custody of the person(s) so designated by the Commission or its staff. The facility will be notified by Commission staff if the Commission Warrant is voided. (7-1-93)
- j. A copy of the report of Violation shall not be given to the alleged parole violator without authorization by the Commission staff. (7-1-93)
05. Due Process. Every parolee arrested on a Commission warrant for (7-1-93)
- a. The alleged parole violator will be advised of any and all hearing dates in a timely manner. (7-1-93)
- b. The Parole Hearing Officer, Executive Director, a Commissioner or the Commission, or other person designated by the Executive Director or a Commissioner may conduct any hearing involved in the revocation process. (7-1-93)
06. Non-Technical Violation. Whenever an alleged parole violator is charged with a non-technical violation for absconding supervision or for the conviction for a felony or misdemeanor crime, the following will apply: (7-1-93)

a. The alleged parole violator will not normally be entitled to a preliminary hearing or an on-site hearing, as the judgment of conviction and/or information that the alleged parole violator was not within the area allowed by the supervising officer and/or did not obtain permission to leave the area confines, shall constitute probable cause. He will be entitled to a fair and impartial hearing within a reasonable time following receipt of the charges of the violation of conditions of parole after his arrest and detention, based mainly upon the judgment of conviction or information regarding absconding. (7-1-93)

b. The alleged parole violator will be afforded all rights and privileges, as described in Rule 650.03. (7-1-93)

c. The, alleged parole violator may waive the right to any hearing and may admit one (1) or more of the alleged violation(s) of the conditions of parole. (7-1-93)

07. Technical or Rule Violation. Whenever an alleged parole violator is charged with a technical or rule violation only -- other than by absconding parole or a conviction for a felony or a misdemeanor--the following will apply: (7-1-93)

a. A preliminary hearing may be held at or reasonably near the site of the violation; this hearing shall be conducted by the District Manager, Section Supervisor, or such other as designated by the Executive Director. (7-1-93)

b. The alleged parole violator shall have the right to the following: (7-1-93)

i. Written notice of the violation(s) as charged, at least twenty-four (24) hours prior to the hearing. (7-1-93)

ii. Disclosure of the evidence against him. (7-1-93)

iii. An opportunity to be heard and to present witnesses and documentary evidence. (7-1-93)

iv. The right to confront and cross-examine adverse witnesses, unless the hearing officer specifically finds good cause for not allowing such confrontation. (7-1-93)

08. Hearing Officer Report. The hearing officer shall prepare a written report which shall contain the following and a copy of such will be given to the alleged parole violator. (7-1-93)

a. A summary of all testimony. (7-1-93)

b. Evidence presented from all sources. (7-1-93)

c. A separate finding of probable cause must be made on each alleged violation; such finding must state the facts relied upon for the finding of probable cause. (7-1-93)

09. Parole Revocation Hearing. The parole revocation hearing will generally be in two (2) parts--a fact-finding hearing or portion and a revocation hearing or portion. (7-1-93)

a. Part I: The Commission or a hearing officer as designated by the Executive Director shall conduct a fact finding hearing to determine guilt or innocence on each alleged violation and the alleged parole violator shall have the right to the following: (7-1-93)

i. Written notice of the violation(s) as charged, at least twenty-four (24) hours prior to the hearing. (7-1-93)

ii. Disclosure of the evidence against him. (7-1-93)

iii. An opportunity to be heard in person and to present witnesses and documentary evidence. (7-1-93)

- iv. The right to confront and cross-examine adverse witnesses, unless the Commission or the hearing officer specifically finds good cause for not allowing such confrontation. (7-1-93)
- v. A neutral and detached hearing body (the Commission) or a neutral and detached hearing officer. (7-1-93)
- vi. A summary of all testimony and a written statement of the findings on each alleged violation, stating the evidence relied upon. (7-1-93)
- b. Part II: If a finding of guilt is made on one (1) or more of the alleged violations, the Commission shall review the alleged charges, the testimony and the finding on each alleged violation and may revoke parole. (7-1-93)
- i. If the parole is revoked, the Commission shall state the reason(s) for revoking parole. (7-1-93)
- ii. Upon revocation, the alleged parole violator may be eligible for parole consideration as outlined in Rule 300. (7-1-93)
- c. The alleged parole violator will be afforded all rights and privileges as described in Rule 650.03. (7-1-93)
- d. The alleged parole violator may waive the right to any hearings and may admit one (1) or more of the alleged violation(s) of the conditions of parole. (7-1-93)
10. Subpoena Power. The Commission has no subpoena power and it is the responsibility of field supervision personnel to have necessary witnesses present at any and all pertinent hearings. (7-1-93)
11. Waive Rights. The alleged parole violator may waive the right to any hearing. (7-1-93)
12. Arrest Outside Idaho. An alleged parole violator who has been arrested outside of the State of Idaho may be subject to the previously described hearings. (7-1-93)
13. Detainer. A detainer may be lodged against an alleged parole violator who has been arrested and charged with a new crime or other violation(s) in the state of Idaho or another state; the revocation process will be started at the direction of the Executive Director or other Commission designee. (7-1-93)
14. Forfeiture. If parole is revoked, the time during which a person was on parole, from the parole release date to the arrest on an agent's warrant or the Commission warrant, whichever was first, shall be forfeited. and not deemed a part of the sentence for which he is recommitted. (7-1-93)
15. Decision. The hearing officer or Commission(er) who presided over a parole violation or revocation hearing shall enter a decision within twenty (20) days following the conclusion of the hearing. (7-1-93)
16. Extradition. If an alleged parole violator is arrested on a Commission warrant outside the State of Idaho, extradition for his return to the State of Idaho may commence. (7-1-93)
- a. Extradition for the return of any alleged parole violator may be limited to certain state(s) or to the State of Idaho only; any such limitation will be listed on the warrant and entered into either the national crime information center or the Idaho only information, respectively. (7-1-93)
- b. Hearings as described in Rule 650.05. may apply to technical violations, but in most cases, all efforts will be made to return the alleged parole violator to the State of Idaho for his hearing to make certain the statutes and rules are correctly adhered to; in any case, the Commission will conduct the final revocation hearing if the alleged parole violator is found guilty of any or all of the violations as charged. (7-1-93)
- c. If an alleged parole violator has been arrested on the Commission warrant for a rule violation only, and the location of arrest is within the stated extradition limits and/or the return will be attempted, the alleged parole

violator may be returned to the State of Idaho, or a preliminary and/or parole violation hearing may be conducted near the site where the alleged violation(s) occurred or at the site of arrest; such site shall be determined by the Executive Director. (7-1-93)

d. If an alleged parole violator has been arrested for new criminal charges, generally, extradition proceedings will not commence until the new criminal charges have been adjudicated as the new charges take precedence. (7-1-93)

e. The Commission warrant may be lodged as a detainer only and will not be served on the alleged parole violator until ordered by the Commission staff. (7-1-93)

f. If the new criminal charges are dismissed or the alleged parole violator is judged to be not guilty of the new criminal charges, the violation(s) are technical only and a decision will be made by the Commission staff whether or not to attempt his return to the state of Idaho or to continue him on parole. (7-1-93)

16. New Criminal Charges. An alleged parole violator may be judged guilty of new criminal charges. (7-1-93)

a. If the new criminal charges do not result in incarceration, a decision will be made whether or not to continue the alleged parole violator on parole, attempt the return of the alleged parole violator to the State of Idaho for a hearing, or request that an official in the state where the alleged parole violator is residing conduct a parole violation hearing. (7-1-93)

b. If the new criminal charges result in a commitment and incarceration, documents will be submitted to the alleged parole violator, advising him/her of the option for a parole revocation hearing to be conducted in absentia or to return him to the State of Idaho for a parole revocation hearing to be conducted following completion of the sentence he received in the other state. (7-1-93)

c. Should the alleged parole violator waive his right to be present at the hearing, to present witnesses who may be able to refute the charges, to cross-examine adverse witnesses, or to have an attorney present to assist in his defense, the Commission would then make a determination of guilt or innocence based upon the new conviction, determine whether or not to revoke parole, and whether or not another parole will be granted. (7-1-93)

i. If the Commission determines that the alleged parole violator is not guilty of violating the condition(s) of parole as charged, he will be continued on parole. (7-1-93)

ii. If the Commission determines that the alleged parole violator is guilty of violating parole as charged, the parole will be revoked and a detainer will be lodged with the jurisdiction where the inmate is housed, advising that sixty (60) days before completion of the sentence in that jurisdiction or release to parole, the Department of Correction is to be notified. (7-1-93)

iii. The alleged parole violator may elect not to waive his right to an appearance before the Commission for a revocation hearing; the following procedure will be followed or a hearing officer may be appointed to determine guilt or innocence. (7-1-93)

iv. A detainer will be filed with the jurisdiction where the alleged parole violator is housed and the alleged parole violator will be returned upon completion of the sentence. (7-1-93)

v. Time served in the state where the alleged parole violator is serving time for a new commitment will not be credited toward the Idaho sentence, and the alleged parole violator will be considered a fugitive from justice, and will forfeit all time from the date of refusal until Idaho authorities take him into custody. (7-1-93)

vi. Upon release by the out-of-state jurisdiction, the Commission warrant will become operative, return of the alleged parole violator will commence, and the alleged parole violator will be afforded hearings which are pertinent to his case. (7-1-93)

d. If the alleged parole violator has previously signed a waiver of extradition from the state where he

is residing or incarcerated, the alleged parole violator may be returned to the State of Idaho without further extradition proceedings. (7-1-93)

i. If a proper waiver of extradition has not been signed, the alleged parole violator will be taken before a Court of Law to determine if he will waive extradition to the state of Idaho. (7-1-93)

ii. If he refuses to waive extradition to the state of Idaho, a Governor's Warrant may be requested for his return to answer to the charges of violation(s) of parole; credit toward his paroled sentence will not be given from the date of refusal to be extradited to such specific date as the alleged parole violator agrees to return to the State of Idaho. (7-1-93)

e. If the alleged parole violator is arrested in a state not listed on one from which the Commission will extradite, a decision may be made to affect his return. (7-1-93)

651. -- 699. (RESERVED).

700. REMISSION OF FINE OR PENALTY.

01. Request. A request for remission of fine or penalty must be made to the Commission staff. (7-1-93)

a. The request must be in writing. (7-1-93)

b. The request must outline the reasons action by the Commission is requested. (7-1-93)

c. The Commission staff will request a certified copy of the fine or penalty assessed from the sentencing jurisdiction. (7-1-93)

02. Hearing Scheduled After Receipt of Request. Pursuant to receipt of the above, a hearing will be scheduled. (7-1-93)

a. A hearing will be scheduled at the next quarterly session of the Commission, allowing time for publication of notice. (7-1-93)

b. Notice of the hearing shall be published in some newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks, immediately prior to the hearing. (7-1-93)

c. All policy and procedure governing the conduct of a parole hearing will apply to this type of hearing. (7-1-93)

d. A majority vote of the Commission is required for a decision. (7-1-93)

i. Dissenting votes of the Commissioners voting are submitted to the office of the Secretary of State and become a matter of public record. (7-1-93)

ii. All written material considered in the decision process will be submitted to the office of the Secretary of State and become a matter of public record. (7-1-93)

03. Satisfaction of Judgment. If a majority of the Commission elects to remit a fine or penalty, an official document of the action taken will be submitted to the Clerk of the Court where said fine or penalty was adjudged, and this will constitute a satisfaction of judgment. (7-1-93)

701. -- 749. (RESERVED).

750. PAROLE PLAN AND RELEASE PROCEDURES.

01. Parole Plan. A parole plan shall provide for the positive re-entry of the inmate into the community through the following: (7-1-93)

- a. A stable residence. (7-1-93)
 - b. Adequate employment or adequate maintenance and care by 'a stable support system such as a family, shelter home, or other. (7-1-93)
 - c. The particular needs of the prospective parolee should be addressed, such as alcohol or drug problems, physical or mental disorders, or other. (7-1-93)
 - d. Educational programs may be considered, provided the prospective parolee presents evidence of his ability to complete the proposed program and to function at the proposed academic or vocational level, and that he can provide evidence of adequate economic funding for living expenses, etc. (7-1-93)
02. Submission of Plan. The specific parole plan shall be submitted by the inmate to the social worker/counselor prior to a scheduled parole hearing in order for the Commission to make an informed decision regarding the proposed plan or it may be presented orally or in writing to the Commission at the time of the parole hearing. (7-1-93)
- a. If changes occur in the proposed parole plan, a new plan may be submitted. (7-1-93)
 - i. The Executive Director will determine whether or not the Commission needs to review the change of plan. (7-1-93)
 - ii. If Commission approval is deemed appropriate, the proposed plan will be reviewed at the next session of the Commission or by conference call of a majority of the Commission if the situation is deemed to be an emergency. (7-1-93)
 - b. If an inmate is housed outside of the State of Idaho or in a county jail, the parole plan shall be submitted at least orally to the Commission, to be followed by the written: plan being submitted to the Commission staff.; (7-1-93)
03. Other Submission. In cases where the inmate did not previously submit a finalized parole plan at the time of the parole hearing, the parole grant was six (6) months or more in advance of the hearing, or for any other reason, the parole plan shall be submitted to, the Commission office per the following guidelines to insure that the investigation is completed by the tentative release date: (7-1-93)
- a. An Idaho plan: Six (6) to eight (8) weeks prior to the tentative parole date. (7-1-93)
 - b. An out-of-state plan: Three (3) months prior to the tentative parole date. (7-1-93)
 - c. An Open Date: As soon as possible following the parole hearing. (7-1-93)
04. Investigation. When a specific parole plan has been submitted, a pre-parole investigation will generally be conducted by field corrections personnel. There may be situations when an investigation is not completed. (7-1-93)
- a. A packet of file material on the particular inmate will be submitted for investigation, and shall include, but shall not be limited to, the following: (7-1-93)
 - i. A parole plan. (7-1-93)
 - ii. A presentence investigation report when available. (7-1-93)
 - iii. Information regarding the crime when available. (7-1-93)
 - iv. Available reports or information regarding the criminal history. (7-1-93)

- v. A copy or summary of the Commission hearing minutes or other official documents about the tentative grant of parole. (7-1-93)
- vi. Other pertinent information which is deemed important. (7-1-93)
- b. An investigation of the parole plan may not be completed if the inmate is released from another jurisdiction's custody where he was being housed without a proper notice of the release having been provided to the Commission; the inmate os released will be considered to be on escape status. (7-1-93)
- c. Field supervision personnel or other(s) in the State of Idaho who are assigned to investigate parole plans, shall not accept a pre-parole plan for investigation unless it is submitted from the Commission office, and any change of the parole plan must be authorized by ta Commission staff member. (7-1-93)
- 05. Release Dates. All release dates granted by the Commission are tentative and are subject to the following: (7-1-93)
 - a. An approved parole plan, if an investigation was requested. (7-1-93)
 - b. The inmate should have no disciplinary problems nor other adverse information that the Commission was not aware of at the time of the tentative parole grant, or the parole grant may be considered null and void. (Refer to Rule 750.10.) (7-1-93)
- 06. Prospective Parolees. Prospective parolees will be released to parole and may be placed under supervision on or after the parole release date which was granted. (7-1-93)
 - a. All parolees who were sentenced for a crime(s) in one or more Idaho counties, committed to the department of correction, and reside in the State of Idaho will be supervised. (7-1-93)
 - b. Request for supervision through the Interstate Compact will be requested on parolees who were sentenced for a crime(s) in one or more Idaho counties, committed to the Department of Correction, and reside outside of the state of Idaho, with the exception as described in Rule 750.06.c. (7-1-93)
 - c. In certain circumstances, the Commission may grant an unsupervised parole. (7-1-93)
 - i. The parolee would be directed to submit written reports to the Commission office. (7-1-93)
 - ii. The parolee must advise the community corrections and law enforcement personnel in the area where he resides of his residence and follow any and all reporting instructions as the particular agencies may require. (7-1-93)
- 07. Contract Prior to Release. Prior to release to parole, the parolee will sign a contract which has been approved and signed by the Executive Director or 'a Commissioner. (7-1-93)
 - a. Should the prospective parolee be housed in a county jail or a- jail or institution outside the State of Idaho and should the housing facility release the prospective parolee without authorization and without providing notice to the Parole Commission in order that the parole contract could be forwarded for the prospective parolee to sign, the individual will be considered to be on escape. (7-1-93)
 - b. If the whereabouts of the individual are known, the parole contract will be forwarded to a community corrections officer in the area where the individual resides for him to sign. (7-1-93)
 - i. The original signed contract shall be returned for retention in the file. (7-1-93)
 - ii. Should the individual refuse to sign the contract, the community corrections official will submit a signed statement regarding the refusal to sign the contract and a warrant for escape will be requested. (7-1-93)
 - c. If the whereabouts of the individual are not known, a warrant for escape will be requested. (7-1-93)

08. Reporting Instructions. The parolee will be given reporting instructions. (7-1-93)
- a. The parolee shall at a minimum be advised of the supervising officer's name and the city where his office is located. (7-1-93)
 - b. The parolee shall contact his supervising officer directly following release or as soon as possible, and according to the minimal time frames as established below: (7-1-93)
 - i. Within the State of Idaho, the parolee must check in with the community corrections office within twenty-four (24) hours or the next regular office day following release to parole. (7-1-93)
 - ii. When the parolee is to reside outside of the State of Idaho, he must check in with the community correction's office within seventy-two (72) hours following release to parole unless other provisions have been made. (7-1-93)
 - c. The parolee is responsible to arrange his own transportation upon release to parole. (7-1-93)
 - d. If the prospective parolee wants to deviate from direct travel to the approved location, he must obtain permission from the Executive Director or a designee at least two (2) weeks prior to the scheduled release. (7-1-93)
 - i. The above excludes normal travel stops on an extended trip such as for gas, food, and lodging at hotels. (7-1-93)
 - ii. The request shall be made in writing to the social worker/counselor, if available, and the request will be forwarded to the Commission office. (7-1-93)
 - iii. In most cases, community corrections or law enforcement personnel in the area of the requested stay or visit will be contacted. (7-1-93)
09. Review. The Commission may conduct a jacket review/file review for any reason prior to any inmates's release to parole or while on parole. (7-1-93)
10. Voided Release Date. A tentative release date may be voided at the unreviewable discretion of the Commission or at the discretion of the Executive Director subject only to review by the Commission. (7-1-93)
- a. If the inmate is scheduled for parole release prior to the next scheduled session of the Commission, the inmate will be notified that the release will be postponed until the disciplinary report(s) or information can be reviewed. (7-1-93)
 - b. The Executive Director or designee will determine if the disciplinary report(s) or information was available to the Commission at the time of the parole grant. (7-1-93)
 - c. The Commission will review the disciplinary report(s) or information without a personal interview with the inmate and may take one (1) of the following actions and the inmate will be notified: (7-1-93)
 - i. Take no further action. (7-1-93)
 - ii. Void the previously granted tentative parole date and grant a new tentative parole date. (7-1-93)
 - iii. Void the previously ranted tentative parole date and schedule a new parole hearing. (7-1-93)
 - iv. Void the previously granted tentative parole date and pass the inmate to his goodtime release date/ full term release date. (7-1-93)
 - v. Add special conditions. (7-1-93)

- vi. Take other appropriate action as deemed necessary. (7-1-93)
- d. If the Commission has previously voided a tentative parole date due to a disciplinary report(s) or adverse information, and the disciplinary report is dismissed or overturned or the adverse information is determined to be inaccurate, the following action may be taken: (7-1-93)
 - i. The Executive Director will determine whether or not the Commission should review the case again. (7-1-93)
 - ii. The Executive Director may determine to reinstate the previously granted date without Commission review. (7-1-93)

751. -- 899. (RESERVED).

900. REVISIONS TO RULES.

The following illustrates dates of adoption and revisions to the published Rules of Practice and Procedure. Specific information concerning the history of each rule - original adoption, revision, and deletion can be obtained from the Commission office. (7-1-93)

- 01. October 1987. The Commission adopted the original rules under the Administrative Procedures Act. (7-1-93)
- 02. April 1988. The Commission adopted revisions to the original rules. (7-1-93)
- 03. April 1989. Under the emergency provisions, the Commission adopted Rule 200.04. (This rule references the setting of the initial parole hearing.) (7-1-93)
- 04. April 1990. The Commission adopted revisions and new rules were re-written in their entirety. (7-1-93)

901. -- 999. (RESERVED).