

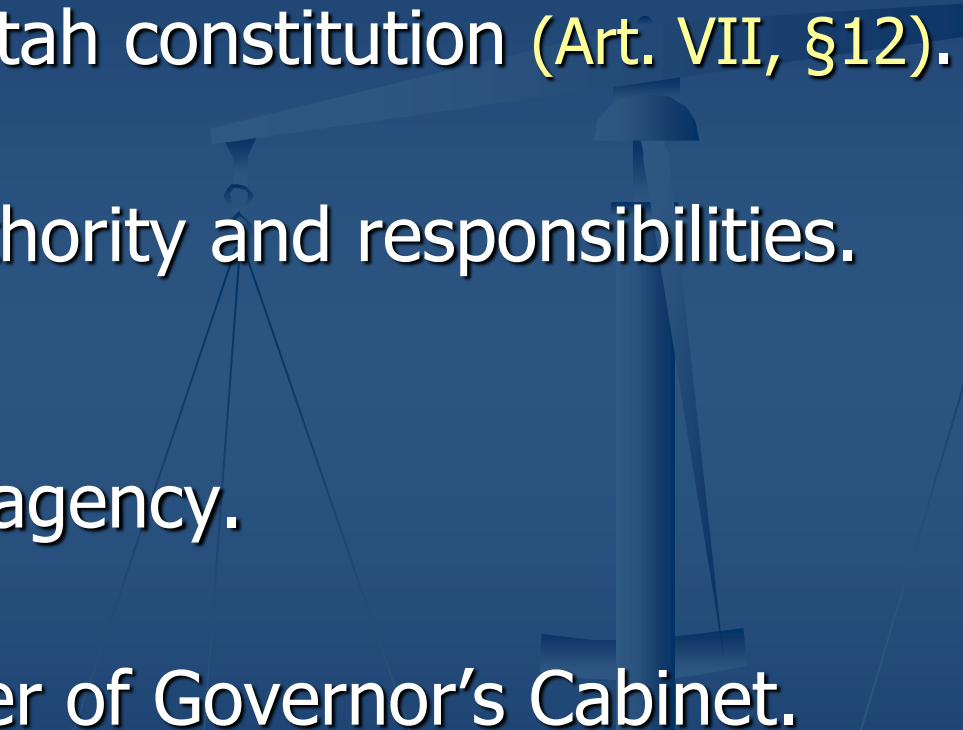


UTAH BOARD OF PARDONS & PAROLE

Overview / Review / Q&A

2014 UPAA Conference

The Utah Board of Pardons & Parole

- Board created by Utah constitution (Art. VII, §12).
 - Board statutory authority and responsibilities.
(UCA §77, Chap. 27.)
 - Independent state agency.
 - Chairman is member of Governor's Cabinet.
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- A faint, stylized illustration of a balance scale is visible in the background of the slide. The scale is positioned vertically, with its central pillar and horizontal beam extending across the middle. Two pans are suspended from the beam by thin lines, one on each side. The entire image is rendered in a light blue color that blends into the dark blue background.

The Utah Board of Pardons & Parole

- 5 Board Members.
 - Full time state executive positions.
 - Up to 5 pro tempore members available to fill in for the full time members, as needed.
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The Utah Board of Pardons & Parole

- Board Members are appointed by the Governor and confirmed by the Senate.
- Each member serves a staggered five year term.



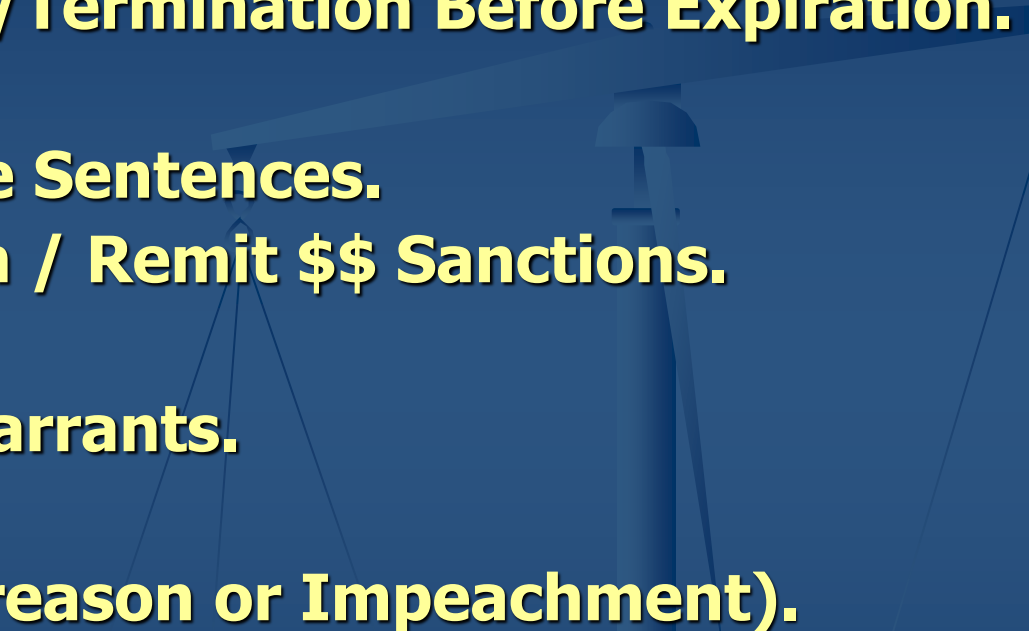
BOARD RELEASE JURISDICTION

- All offenders committed to the custody of the Utah Department of Corrections.
- Includes all state felons and class A misdemeanants sentenced to incarceration at the Utah State Prison.

***** - 2011 Statute and Class A Misd.**

(UCA §76-3-208)

BOARD AUTHORITY

- **Clemency – Parole/Termination Before Expiration.**
 - **Parole conditions.**
 - **Commute / Reduce Sentences.**
 - **Impose Restitution / Remit \$\$ Sanctions.**
 - **Terminate Parole.**
 - **Parole Violation Warrants.**
 - **Parole Revocation.**
 - **Pardons (Except Treason or Impeachment).**
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TYPES OF DECISIONS / HEARINGS

Most Board decisions, and all decisions affecting release, require concurrence of at least a majority of the Board (i.e., at least 3 votes in favor of the action).

- **Original Parole Grant Hearings**
- **Re-Hearings**
- **Re-Determination Decisions and Hearings**
- **Rescission Decisions and Hearings**
- **Parole Violation Hearings**
- **Restitution Decisions and Hearings**
- **Special Attention/Parole Condition Decisions and Hearings**
- **Pardon Hearings**
- **Commutation Hearings**

ORIGINAL HEARINGS

Utah Admin Code R671-201

Board required to give notice of month and year of inmate's original hearing within six months of commitment.

- **Homicide, Att. Homicide Sentences:** Board determines original hearing date within three months of arrival at prison.
- **1st Deg. (16+ to Life):** OH at 15 years.
- **1st Deg. (10-15 to Life):** OH at 7 years.
- **1st Deg. (>10 to Life):** OH at 36 months.
- **2nd Deg. (sex offenses):** OH at 18 months.
- **2nd Deg.:** OH at 6 months.
- **3rd Deg. (sex offense):** OH at 12 months.
- **3rd Deg.:** OH at 3 months.

ORIGINAL HEARINGS

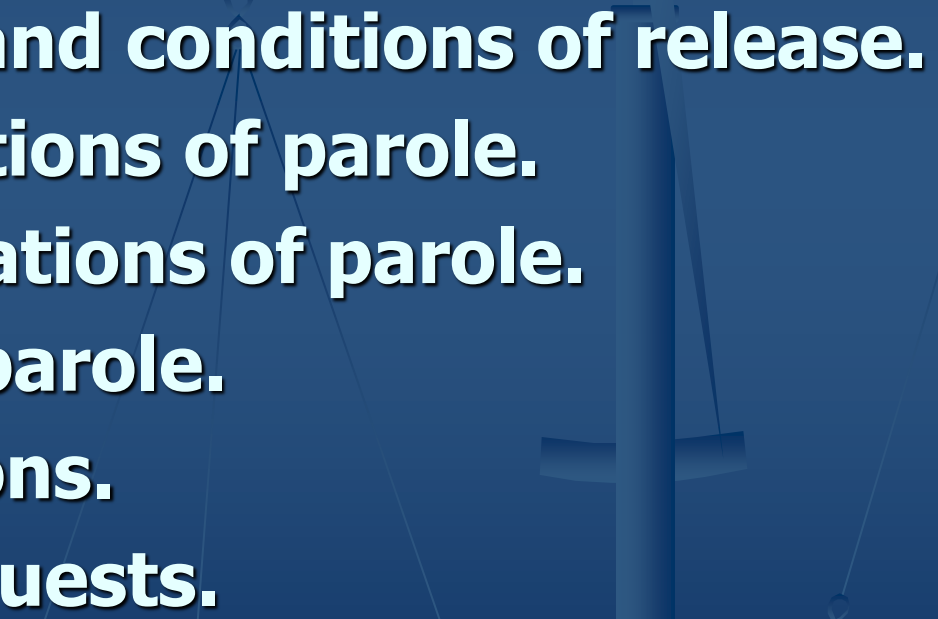
Utah Admin Code R671-201

Decisions made at original hearings can include the following:

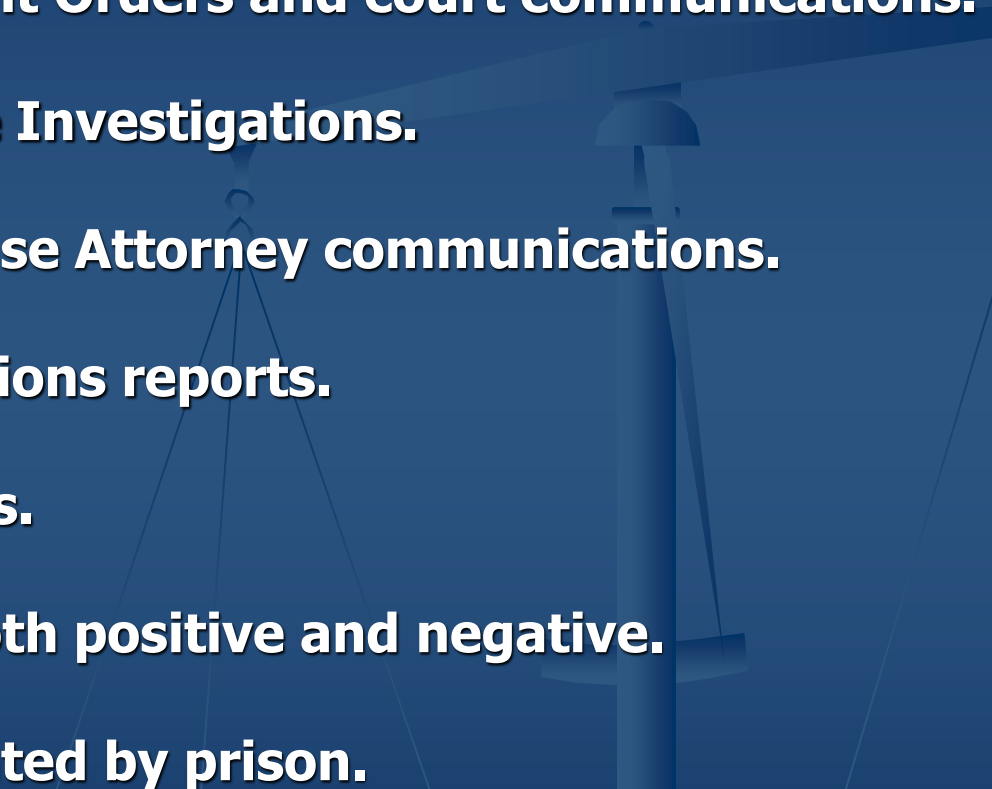
- 1) Parole date w/associated conditions.**
- 2) Re-Hearing date.**
- 3) Termination date.**
- 4) Expiration of sentence.**

Inmates who are sentenced to death or life without parole are not granted an original hearing.

SPECIAL ATTENTION REVIEWS

- **Adjusting time and conditions of release.**
 - **Adjusting conditions of parole.**
 - **Progress or violations of parole.**
 - **Termination of parole.**
 - **Re-determinations.**
 - **Response to requests.**
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PREPARING FOR A HEARING / THE BOARD'S FILE

- **Judgment/Commitment Orders and court communications.**
 - **Pre and Post-Sentence Investigations.**
 - **Prosecuting and Defense Attorney communications.**
 - **Department of Corrections reports.**
 - **Victim communications.**
 - **All correspondence, both positive and negative.**
 - **Inmate reports generated by prison.**
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YOUR IMPACT

- **INFORMATION, INFORMATION, INFORMATION!**
 - **Statutory prosecutor duties.**
 - **Restitution (amounts, hearings, stipulations, etc.)**
 - **Prosecutor Recommendations.**
 - **Guideline recommendations.**
 - **Plea agreement considerations, reasons, etc.**
- 

Selected Statutes

77-27-7. Parole or hearing dates --

- Within 6 mos. of commitment - BOPP must inform inmate of the tentative date of his first appearance before Board.
- Before final decision to release - the chair shall cause the offender to appear before the board for an in-person hearing.

Selected Statutes

76-3-401. Concurrent or consecutive sentences -- Limitations.

- [(6)(a)] If a court imposes consecutive sentences, the aggregate maximum of all sentences imposed may not exceed 30 years imprisonment.
- The limitation doesn't apply to:
 - 1st Degree or Capital Sentences
 - New offenses / sentences for conduct after initial sentence was imposed.
- BOPP shall treat . . . as a single term that consists of the aggregate of the validly imposed prison terms.

Selected Statutes

- **77-18-5. Reports by . . .prosecuting attorneys to Board of Pardons and Parole.**
- Where an indeterminate sentence is imposed, the judge and **prosecuting attorney** may, within 30 days, mail a statement to the Board of Pardons and Parole setting forth the term for which the prisoner ought to be imprisoned together with any information which might aid the board . . .

PARDONS

[1896]

- The Board of Pardons and Parole, by majority vote and upon other conditions as provided by statute, may grant parole, remit fines, forfeitures, and restitution orders, commute punishments, and **grant pardons after convictions, in all cases** except treason and impeachments, subject to regulations as provided by statute.

~ *UTAH CONST. Art. VII, Sec. 12(2)(a)*

PARDONS

[1953]

- BOPP “shall determine by majority decision when and under what conditions . . . may be . . . **pardoned**”.

~ Utah Code Ann. §77-27-5(1)(a)

PARDONS

[1953]

- A commutation or pardon may be granted only after a full hearing before the board.

~ *Utah Code Ann. §77-27-5(1)(d)*

- "Pardon" is an act of grace by an appropriate authority exempting a person from punishment for a crime.

~ *Utah Code Ann. §77-27-1(12).*

PARDONS



What is a Pardon?

- *When total clemency is granted, the person to whom clemency was granted is as innocent as if he had never committed the offense.*
- ~ *Ex Parte Garland, 71 U.S. 333, 393 (1866).*

PARDONS

What is a Pardon?

A pardon is an act of grace by which an offender is released from the consequences of his offense, so far as such release is practicable and within control of the pardoning power, or of officers under its direction. It releases the offender from all disabilities imposed by the offense, and restores to him all of his civil rights. In contemplation of law, it so far blots out the offense, that afterwards it cannot be imputed to him to prevent assertion of his legal rights. It gives him new credit and capacity, and rehabilitates him to that extent in his former position.

~ Knote v. United States, 95 U.S. 149, 153 (1877).

PARDONS

What is a Pardon?

[2013]

{HB 33}

"Pardon" is an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction. A pardon releases an offender from the entire punishment prescribed for a criminal offense and from disabilities that are a consequence of the criminal conviction. A pardon reinstates any civil rights lost as a consequence of conviction or punishment for a criminal offense.

- ~ *Utah Code Ann. §77-27-1(12)*

PARDONS

What does a pardon mean?

[2013-14] {HB 33 (2013) / HB 366 (2014)}

- (1) Upon granting a pardon, the board shall issue an expungement order, directing any criminal justice agency to remove the recipient's identifying information relating to the expunged convictions from its records.
- (2) An expungement order, issued by the board, has the same legal effect and authority as an order of expungement issued by a court, pursuant to Title 77, Chapter 40, Utah Expungement Act.

~ Utah Code Ann. §77-27-5.1

PARDONS

How?

The Board may consider an application for a pardon from any individual who has been convicted of an offense in the state of Utah, after the applicant has exhausted all judicial remedies, including expungement, in an effort to ameliorate the effects of the conviction. The Board generally will accept and consider a pardon application only after at least five years has passed since the sentence for the conviction has been terminated or expired.

~ Utah R. Admin. P. R671-315-1(A)

PARDONS



How?

- Completed application.
- Police reports;
- Pre- or Post- sentence reports;
- Applicant's inmate files;
- Current BCI report, NCIC report, and III report;
- Applicant's employment history;
- Verification that all restitution, fines, fees, or surcharges have been paid in full; and
- Verification that the applicant completed therapy programs ordered by any court or by the Board.

~ *Utah R. Admin. P. R671-315-1(A)(2)*

PARDONS



How?

- **Preliminary Vote for Hearing (Application, BOPP File, BCI)**
- **Notice:**
 - Victim;
 - Court;
 - Arresting Agency / Investigating Agency;
 - Prosecution Agency.
 - State Public Notice website & Board website.
- **Hearing:**
 - Personal Appearance
 - Victims, Noticees
 - Full Board
- **Final Vote**

THE UTAH BOARD OF PARDONS & PAROLE

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