
GOVERNMENT NOTICE

DEPARTMENT OF CORRECTIONAL SERVICES

No. R. 248

7 April 2006

DIRECTIVES REGARDING COMPLAINANT PARTICIPATION IN CORRECTIONAL SUPERVISION AND PAROLE BOARDS

These Directives were issued by the Commissioner : Correctional Services in terms of the stipulations of Section 299 A of the Criminal Procedure Act, 1977 (Act 51 of 1977) and were tabled in Parliament on 27 September 2005.

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October 2005

**DIRECTIVES: COMPLAINANT PARTICIPATION IN CORRECTIONAL
SUPERVISION AND PAROLE BOARDS.**

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1 DEFINITIONS

In these directives,-

'complainant' means a complainant or relative contemplated in section 299A (1) of the Criminal Procedure Act, 1977 (Act No 51 of 1977);

'Correctional Services Act' means the Correctional Services Act, 1998 (Act No 111 of 1998);

'Criminal Procedure Act' means the Criminal Procedure Act, 1977 (Act No 51 of 1977);

'parole' means correctional supervision, *day* parole or parole contemplated in the Correctional Services Act, 1998 (Act No 111 of 1998);

'Parole Board' means a Correctional Supervision Parole Board established under section 74 of the Correctional Services Act, 1998 (Act No 111 of 1998).

2 INFORMATION ON COMPLAINANT INVOLVEMENT IN PAROLE BOARD HEARINGS

(1) When a court sentences a person to imprisonment for the offences referred to in section 299A of the Criminal Procedure Act, 1977, it shall inform the complainant if he or she is present, of his or her right to make representations when placement of that offender on parole, is being considered, or to attend any relevant meeting of the Parole Board.

(2) The Directorate Pre-Release Resettlement shall ensure that posters and information brochures are made available to the public, at the various courts, and at all correctional institutions including Head Office, Regional Offices, Parole Boards and Community Corrections offices.

3 NOTIFICATION

(1) Every complainant who desires to be informed about a parole hearing shall ensure that the Parole Board in whose area the offender is being detained is informed in writing of that desire, as well as his or her desire to make representations at such a hearing.

(2) A complainant contemplated in paragraph 3 (1) shall notify the Chairperson of the relevant Parole Board in writing of the desire to be involved in Parole Board hearings, and shall clearly state at least-

- (a) the name of the offender;
- (b) the offence committed;

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- (c) the case number, the date and the name of the court where the offender was convicted; and
 - (d) the physical and postal address of the complainant.
- (3) It is a complainant's responsibility to ensure that the Parole Board ~~is~~ informed of any address changes.
- (4) A complainant's request as contemplated in paragraph 3 (2) shall be recorded and the Parole Board shall inform him or her in writing-
- (a) when and to whom he or she may make representations;
 - (b) of the format and contents that the representations may assume;
 - (c) at least 30 days in advance of when and where a meeting of the Parole Board will take place;
 - (d) of the name and contact particulars of a member of staff who may be contacted for more information;
 - (e) of the decision of a Parole Board hearing;
 - (9) of parole violations by the offender should he or she be released on parole; and
 - (g) of the process to be followed in case the complainant wants to report a parole violation and provide contact details where such a violation can be reported.
- (5) A complainant may at any time during an offender's term of imprisonment request to be involved in Parole Board hearings.

4 CONFIDENTIALITY

- (1) The Chairpersons of Parole Boards shall ensure that the contact details of all complainants are kept confidential at all times.
- (2) The contact details of a complainant must be kept separately from the offender's general file. Access must be strictly managed by the Chairperson of the Parole Board.
- (3) A note shall be made on an offender's general file to indicate clearly that the complainant has to be informed about Parole Hearings and approved parole dates, without giving any details about the complainant.
- (4) The Case Management Committee shall ensure that it is indicated on the G326 Parole Profile report that the complainant must be informed in order that the Parole Board can contact and inform the complainant of any dates of hearings or approved parole dates.
- (5) A complainant's particulars shall only be available at and for the purposes of the Parole Boards.

5 STATEMENTS

Complainant impact statement

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(1) Complainant impact statement shall consist of a written or verbal statement by the complainant or immediate family members, who give the Parole Board a description of the physical, financial and emotional effects on the complainant and family members.

Statement of opposition

(2) A statement of opposition shall consist of a written or verbal statement and shall contain reasons by the complainant why the offender should not be placed on parole.

Audio tape

(3) An audio recording made by the complainant, which may contain a complainant impact statement or statement of opposition, or both, may be presented on condition that the recording is made in the presence of the Chairperson of the relevant Parole Board who will be able to certify that the voice on the recording is authentic.

Personal representations

(4) Complainants may appear in person before the Parole Board to make representations, which should contain a complainant impact statement or a statement of opposition, or both.

Video tape

(5) A video recording made by the complainant which may contain a complainant impact statement or a statement of opposition, or both, may be presented where facilities exist.

Evidence of significant other persons

(6) Evidence from significant other persons working or interacting with the complainant and his or her family may form part of the representation by the complainant provided that a complainant must obtain permission from the Chairperson of the Parole Board prior to the significant other persons providing evidence on behalf of the complainant. If the Chairperson is convinced that information cannot be presented by the complainant, he or she may approve a request to provide evidence from significant other persons.

(7) The Chairperson of the Parole Board may request additional information or clarification of the representation on condition that the information should be provided without further delaying the proceedings of the Board.

6 RIGHT OF THE OFFENDER

(1) All written representations, audio and video recordings will be brought to the attention of the offender during the Parole Board hearing in order to ensure a fair application of the *audi alterem partem* rule, and the offender shall be afforded the opportunity to respond to the statements made by the complainant.

(2) Verbal representations by the complainant during the Parole Board hearing, shall take place in the presence of the offender.

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7 CONTENT OF REPRESENTATIONS (VERBAL AND WRITTEN)

A representation may deal with-

- (a) a statement on the impact of the offence on the complainant which may contain a description of the effects of the offence committed as well as the physical, financial and emotional effects which the offence had on the complainant and family members;
- (b) reasons why the offender should not be released on parole for example, the risk the offender may pose to the complainant after release; and
- (c) recommendations on possible parole conditions which may be imposed on the offender to reduce this risk to the complainant, should placement on parole be approved.

8 INFLUENCE OF REPRESENTATION ON DECISION OF PAROLE BOARD

(1) A complainant who has made representations shall be informed by the Parole Board that it is not only his or her representations that will have an influence on the Board, but that the balance of the representations and the following factors will direct a decision by the Board:

- (a) the offender's response to development and treatment programmes associated with rehabilitation;
- (b) the existence and quality of support systems in the community;
- (c) the probability of re-offending;
- (d) the risk that the offender may pose to the community at large; and
- (e) the risk to the complainant.

(2) A complainant does not have a vote on the decision of the Parole Board but may be present for the duration of the hearing of the specific offender's case.

9 LEGAL REPRESENTATION

During the Parole Board hearings no focus or debate on legal issues will take place but it is left to the discretion of the complainant whether he or she requires the assistance from a legal advisor.

10 COSTS

(1) A complainant is responsible for his or her own arrangements and costs incurred in attending a hearing of a Parole Board, including travel and accommodation.

11 DEALING WITH PAROLE VIOLATIONS

(?) A Parole Board shall inform a complainant of any parole revocations relevant to the offender.

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- (2) In the event of parole revocation, the same procedure that was applicable before the initial approval of parole shall be followed before parole is again considered.

12 COMPLAINANT INTERACTION

- (1) The Chairperson of a Parole Board shall ensure that the needs and concerns of complainants are addressed, by inter alia -
- (a) providing complainants with comprehensive information about the process, the proceedings during the hearing and their role therein;
 - (b) identifying the complainant's actual and perceived fears and addressing those issues;
 - (c) ensuring that the process is "complainant-sensitive" and attentive to the complainant's needs and concerns;
 - (d) designating a staff member to guide complainants through the process, and to provide information and assistance, as needed; and
 - (e) providing accompaniment to vulnerable complainants by approving that a vulnerable complainant be accompanied by a family member to provide support, in which case, the person accompanying the complainant may not make any inputs during the parole hearing.
- (2) The Parole Board may ask questions to the complainant to ensure that the information provided are useful and relevant to their decision making process and to enlighten the statement or representation made to the Board.
- (3) The questions contemplated in paragraph 12 (2) shall not be interrogative of nature and shall be asked with dearness and compassion for the complainant and the impact of the offence on him or her.
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