



## FREQUENTLY ASKED QUESTIONS ABOUT THE LACK OF PAROLE FOR FEDERAL PRISONERS

### Q1: What is parole?

**A:** Parole is a hallmark of so-called “indeterminate” sentencing systems. When granted, parole is an agreement between the prisoner and a parole board that allows the prisoner to be released from prison before serving his entire prison term and serve the remainder of that term in the community, under strict supervision, as long as he follows certain conditions. Conditions are different for every person, but some common ones include:

- An agreement not to leave the state/district
- Frequent meetings with a parole officer
- An agreement not to be out past a certain hour (also called a curfew)
- An agreement not to use or possess drugs, alcohol, firearms, etc.
- Keeping a steady job
- Attending drug or alcohol addiction treatment programs
- Submitting to frequent or random drug tests
- Not associating with people with criminal records.

### Q2: What happens in systems that do not allow for parole?

**A:** The alternative is a system in which the sentence cannot be reduced by parole. A sentence must be served in its entirety (though often with reductions for good behavior, set by statute). This is sometimes called “truth in sentencing”; such systems are “determinate” sentencing systems. In these systems, regardless of a prisoner’s behavior, demeanor, and rehabilitation in prison, the person will never go before a parole board and must serve the full time given to him, minus any good time earned. As an example, let’s compare how a 10-year sentence might work in a system with parole and in a system without parole:

<b>With parole (indeterminate)</b>	<b>Without parole (determinant)</b>
Sentence imposed: 10 years	Sentence imposed: 10 years
Parole eligibility: Yes	Parole eligibility: No
Parole granted: After 6 years	Parole granted: Not applicable
Good time credit: Not applicable	Good time credit: 15% (1.5 years) off of 10 years
Time served: 6 years	Time served: 8.5 years
Time on parole supervision: 4 years	Time on parole supervision: Not applicable

### Q3: Has there ever been parole in the federal system?

**A:** Yes. From 1910 to 1984, nearly all federal prisoners received sentences that included parole eligibility after serving one-third of their sentences. During that period, most people convicted in federal courts were *only* given a maximum sentence, not a minimum, and would periodically appear before the parole board, which decided if the prisoner could be released on parole. On average, most federal prisoners served 58% of their maximum sentences before being paroled.

#### **Q4: Is there currently parole in the federal system?**

**A:** Yes and no. In the Sentencing Reform Act of 1984 (SRA), **Congress eliminated federal parole for all prisoners convicted on or after November 1, 1987.** The SRA did not eliminate parole eligibility for prisoners sentenced before that date. There is a United States Parole Commission, and it performs parole hearings for a very small number of people who fall into one of the following categories and who received sentences that included parole eligibility:

- People convicted in federal courts **before** November 1, 1987
- Military code offenders in Bureau of Prisons (BOP) institutions
- Most D.C. Code offenders (for violations of D.C., not federal, law) sentenced prior to August 5, 2000
- “Transfer treaty cases”: crimes prosecuted in other countries but transferred to the U.S. for punishment
- State defendants in the U.S. Marshals Service Witness Protection Program.

If you are unsure if you are eligible for federal parole, please contact an attorney or your case manager within the Bureau of Prisons.

#### **Q5: Why did Congress get rid of parole?**

**A:** There were many reasons Congress chose to get rid of parole. The SRA was a rejection of indeterminate, parole-based sentencing as a whole. Here are some of the reasons Congress and the public rejected indeterminate sentencing and parole:

**1. Rejecting prisoner rehabilitation and choosing punishment.** Prior to 1984, parole was part of a larger goal of criminal justice to “rehabilitate” prisoners and release them into society only when they were reformed and ready to be law-abiding. In the 1970s and 1980s, however, public opinion began to change. Americans became more concerned with ensuring that people were punished – often severely – and began to doubt that prison could rehabilitate a person. The SRA rejected rehabilitation as the primary goal of our sentencing system. Instead, it stated that the purpose of imprisonment is punishment.

**2. Inconsistent and uncertain prison terms.** In the pre-1987 federal sentencing system, two prisoners who committed the same crime with the same criminal record could receive very different sentences, and they could receive parole at different times. Thus, the amount of prison time that would actually be served was uncertain – for example, an offender might receive a 10-year sentence but be released through parole after serving only two years. Both victims and offenders did not know how much time would actually be served for a particular crime. The public and Congress frowned upon these kinds of inconsistencies and uncertainties.

The reasons for these inconsistencies and uncertainties varied. There were multiple parole boards in different parts of the United States, and one region's board might parole some prisoners earlier than another region's board. Parole tended to be granted earlier for white prisoners than for racial minorities. The existence of parole boards also caused federal judges

to behave differently. Consider the following example, and assume that both Case I and Case II involve federal defendants who committed the same crime and had similar criminal backgrounds:

**Case I**

Judge hands down 20-year sentence.  
Parole board denies parole for 15 years.  
Time served: 15 years.

**Case II**

Judge hands down 10-year sentence.  
Parole board grants parole at earliest time.  
Time served: 3 years, 4 months.

In Case I, the judge wants to sentence the prisoner to 10 years in prison, so he hands down a harsh, 20-year sentence because he knows that parole boards grant parole after 58% of time served, on average. But the parole board does not act as the judge expects and denies parole repeatedly. The prisoner serves 15 years instead of the 10 years the judge intended him to serve.

In Case II, the judge wants to sentence the prisoner to 10 years in prison and is confident the prisoner will not be granted parole, so he hands down a 10-year sentence. The prisoner becomes eligible for parole in 3 years, four months, and he is granted parole immediately. The prisoner serves less than half of his full sentence, and far less time than the prisoner in Case I.

Examples like this one led to a public perception that parole produced inconsistent and unpredictable results for prisoners who committed similar crimes and had similar criminal records.

Not having a certain, knowable date of release from prison could also cause frustration and anxiety among prisoners. Prisoners could go before the parole board multiple times, each time hoping for and being denied release. Often, prisoners had to wait months or even years for another chance to receive parole. Though parole boards were required to give the prisoner a list of reasons why parole was being denied, prisoners often did not understand why they were not paroled. Even amongst prisoners, the system could be seen as arbitrary or unfair.

**3. Fear of “releasing” prisoners early.** In the late 1970s, when lawmakers wanted to eliminate federal parole, many polls showed that the public favored longer sentences for prisoners. The public also believed that parole was “setting people free” who were still a danger to society. These beliefs may have been affected by some common misconceptions about the parole process. While parole boards did “release” prisoners by removing them from prisons, they also:

- Carefully considered each case to decide whether a prisoner was still a “danger to society.” Prisoners deemed too dangerous were not granted parole.
- Required prisoners to serve the remainder of their sentences in the community, under strict supervision from parole officers. Parolees who broke the rules or committed new crimes could be – and often were – sent back to prison.

**Q6: Is there currently any legislation to bring back federal parole?**

**A:** No. There are currently no bills pending in Congress to bring back federal parole.

**Q7: How likely is it that Congress will bring back federal parole?**

**A:** It is very unlikely that federal parole will be reinstated any time soon. There is very little congressional interest in or support for the idea.

**Q8: If I wanted to help bring back federal parole, what should I do?**

**A:** You should contact your members of Congress and tell them why you think parole should be allowed again at the federal level. You can locate and contact your congressional representatives at <http://capwiz.com/famm/home>.

**Q9: Does FAMM support bringing back federal parole?**

**A:** Though we recognize that this is an important concern of federal prisoners and their families, FAMM does not have an official position on federal parole. We are instead focused on changing sentencing laws so that people receive fair and individualized punishments.

**Q10: Is there currently parole in state prison systems?**

**A:** Yes, many states still use parole. In many states, parole decisions are made by a parole board. The members of a state parole board are often elected or appointed by a government official (for example, the governor). Every state's process for deciding when a person will be considered for parole is different. Typically, the board interviews the prisoner or reviews his record. Sometimes, prisoners are given psychological exams or other tests by the board. Some states use a set of rules known as parole guidelines to decide when a prisoner should be released on parole. Parole boards often base their decisions to grant or deny parole on the answers to many questions, including:

- Does the prisoner have a stable home to return to?
- Does the prisoner have an immediate means of self-support (such as a job or social security)?
- Is the prisoner likely to commit another crime if he is released?

The decision to release a prisoner on parole is often completely up to the board, and that decision usually cannot be appealed or challenged in court.

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