

Minnesota Supervised Release Board Message from Commissioner of Corrections, Paul Schnell July 9, 2024

My name is Paul Schnell, and I serve as the commissioner of the Minnesota Department of Corrections, and by virtue of that role, I have the statutorily directed role of serving as the chair of the supervised release board. I would like to provide some background information about the supervised release board or what I will refer to as the SRB.

The SRB, became an official body on July 1, 2024. Prior to July 1st – since the early 1970's with the implementation of sentencing guidelines in Minnesota, the responsibility for determining whether or not those serving life sentences would be granted parole release fell to the commissioner of corrections. For purposes of this discussion and in general terms, the terms parole and supervised release are used interchangeably.

Over the past many decades, the sitting commissioner of corrections presided over and had sole decision-making responsibility for denying or granting parole to those serving life sentences in our state. The commissioner was aided in the decision-making process by an advisory panel of Department of Corrections staff that included the deputy commissioners of the department of corrections, the warden of the facility housing the subject of parole consideration, and the executive officer of hearing of the DOC's Hearings and Release Unit. Over the decades, parole releases varied greatly, but in the last few decades as correctional research and risk assessment tool use became more prominent, the number of parole releases have increased.

As the person responsible for reviewing cases and making these decisions for the past 5 and half years, I can tell you that these are not easy decisions. For the parole decisionmaker there is statutory guidance on the factors that must be taken into account in the decision-making process. I will speak to those factors in a few minutes.

In 2019, when I came into this role as a new commissioner serving under a new Governor, I was somewhat surprised to learn how these critically important decisions were being made. The parole hearings were conversations between the commissioner and advisory panel members with victim's surviving family members, followed by a separate meeting with the person eligible for parole consideration, and all these meetings were private.

During a 2019 conversation I had with Governor Walz and Lt. Governor Flanagan, the Governor raised the possibility of seeking legislative approval to create a Life or Indeterminate Sentence Release Board. The Governor and Lt. Governor felt that having a board operating in public to review these cases would provide an important level of public transparency. It was also the Governor's belief that the board should be constructed under a shared governance model to reduce the potential of politicizing these important correctional decisions. Following that meeting, the team began the process of drafting a legislative proposal that we advanced in

2019, which served as the framework for what was finally passed during the 2023 legislative session.

In Minnesota, when case facts warrant, courts can impose a life sentence without the possibility of parole or supervised release. Since 1989, a life sentence in Minnesota required the service of a mandatory minimum term of confinement of 30 years in DOC custody, followed by a period of community supervision extending up to end of the person's natural life. It should be noted that prior to 1989, a life sentence in Minnesota required the individual to serve a minimum term of 17 years of incarceration before being eligible for possible parole release. Though these sentences require the service a minimum term of incarceration, the fact that they are indeterminate sentences means that release is not predetermined – or that release is a decision of a parole authority – which was previously the commissioner of corrections – and is now the supervised release board. In 2005, the Minnesota legislature established a life sentence for certain repeat sexual offenses. These life sentences have varying mandatory minimum terms of incarceration before the board may authorize release.

In 2012, the United States Supreme Court determined that the imposition of a life sentence without the possibility of parole by a juvenile was unconstitutional. The court recognized brain development science in establishing that juveniles and adults be treated differently in sentencing. At the time, Minnesota, had a small number of juveniles who were certified as adults serving life sentences without the possibility of parole. In all these instances, the cases were referred back to the court of jurisdiction for resentencing and in most cases those cases were resentenced to life with the possibility of parole.

Adding to the complexity, during the 2023 legislative session, a new law was passed by the legislature, which took into account brain development and made dramatic changes to cases of juveniles certified as adults receiving sentences of 15 years or more, including those serving life sentences with the possibility of parole. Under the new law, these youth certified as adults would be eligible for early release consideration. This new law also provided the supervised release board with the authority - under conditions - to collapse court imposed consecutive sentences.

Consecutive sentences are those that must be done one at a time or one after fulfillment on another. This is in contrast to concurrent sentencing in which a person could, for instance, have two 15-year sentences that are being served at the same time or concurrently. In cases where juveniles were certified as an adult, the legislature added to two additional members of the supervised release board. Instead of the 5 regular members of the SRB, two additional members with a background in youth development or psychology were added to board decision-making.

As mentioned, the board is made up of 5 regular members, which includes the commissioner of corrections, who by statute always serves as the board chair. The regular members and the members who qualified by virtue of their background in youth development or psychology were selected from a slate of applicants that were in part presented to the Governor by Minnesota

House and Senate minority and majority leaders. Minnesota is fortunate to have people come forward to serve as members of the Supervised Release Board.

Recommended for appointment by:

House Minority Leader Lisa Demuth – Board member Sheryl Ramstad

Speaker of the House Melissa Hortmann – Board member Chris Bray

Senate minority Leader Mark Johnson – Board member Andrew Larson

Senate Majority Leader Erin Murphy – Youth development member Don Streufert

Direct appointment by:

Governor Walz – Youth development member Jody Nelson

Governor Walz – Board member Rana Alexander

This work is not easy. As someone who has done it for the past 5+ years, the decisions made by this body will almost always leave someone disappointed. I would also say that the questions asked during the hearing itself reflect just a portion of the information that goes into making a decision. Board members are provided a broad range of information and reports to review before each meeting. This may include medical, mental health, education, substance use disorder and other types of treatment records, along with comprehensive psychological evaluation and community investigation data.

For your knowledge, there are 12 legislatively designated factors that board members must consider when making parole or supervised release decisions, including:

- (1) A community investigation report completed by a probation officer in the jurisdiction of record.
- (2) A comprehensive development report assessing cognitive, emotional, and social maturity for those persons who were juveniles at the time of the offense and certified as an adult.
- (3) a victim statement under paragraph, if submitted.
- (4) the statement of a prosecutor, if submitted.
- (5) the risk the inmate poses to the community if released.
- (6) the inmate's progress in treatment, if applicable.
- (7) the inmate's behavior while incarcerated.
- (8) psychological or other diagnostic evaluations of the inmate.
- (9) information on the inmate's rehabilitation while incarcerated.
- (10) the inmate's criminal history.
- (11) if the inmate was under 18 years of age at the time of the commission of the offense,

relevant science on the neurological development of juveniles and information on the inmate's maturity and development while incarcerated; and

(12) any other relevant conduct of the inmate while incarcerated or before incarceration.

While these factors must be considered in the decision made by each board member, the legislature did not provide direction about how members should weight the various factors. Supervised release or parole decisions by this board are made by a majority vote of the members or quorum of the members. If the case being considered is a juvenile certified as an adult at least one of the two members with the required background must be present and voting in the case. In the event of tie vote of the members, the outcome of the tie vote will be based upon the vote of the commissioner or chair of the SRB.

While Minnesota law provides the opportunity for release from court-imposed indeterminate sentences, early release is not presumed. In almost every case, the matters coming before this body are the result of convictions for violent offenses.

For those in the public who may wonder, victims do have a specific, statutory role in this process. By law, victims may provide the board with written input, they may elect to meet in private with the board, or they may choose to provide direct public input in the Board meeting forum.

Should you have questions regarding the SRB and future meetings, please contact:

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