



A STEP BY STEP GUIDE TO REPRESENTING INDETERMINATELY SENTENCED PRISONERS (C# PRISONERS)

*Special thanks to the John Howard Association
of Illinois and Project I-11 for their
support for this program*

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Section I INTRODUCTION

This manual is designed to help you represent indeterminately sentenced prisoners (C# prisoners) at parole hearings.

Do not hesitate to ask any question, no matter how basic. The whole process can be bewildering; even sending letters or setting up phone calls to prisoners in the Department of Corrections (DOC) can be a challenge if you are unfamiliar with the process, but easy when you are shown the ropes.

In the past only a select few C# prisoners have been lucky enough to have attorney representation at their parole hearings. Typically, prisoners attend the hearings alone or accompanied by family, friends, clergy, etc. In these instances, the only documents presented to the PRB are letters of support. However, you will have the opportunity to provide much more than that.

Every case is different, and your questions and experiences may go beyond what is covered. For example, issues related to inmates listed on the sex offender or murder registry, inmates with out-of-state parole plans, or inmates making claims of innocence are not fully covered here. However, if those issues arise in your case, we can provide guidance and further training.

Therefore, it is important that you continue to raise questions as they come up. Keep in mind you can reach any of us at any time to brainstorm or to provide direction or help. Don't feel the need to reinvent the wheel when many of us have been doing this for a long time. We have a wealth of information and documents we are happy to share.

Your feedback is important. If you feel training in a particular area is necessary, please let us know, and we will develop a training session around specific concerns. Please feel free to suggest any ideas that you believe will facilitate the effectiveness of this project.

We are pleased that you have chosen to participate in our project, and we look forward to working with you.

****You can reach any of us at:**

Sara Garber	773-288-9304	sara@thedfordgarberlaw.com
Susan Ritacca	872-222-6960	susan@susanritaccalaw.com
Aviva Futorian	773-348-3899	futorian@outlook.com
Ken Berry	312-558-6206	WBerry@winston.com

Section II

OVERVIEW

What is a C# Inmate?

In Illinois, there are still approximately 150 prisoners who were sentenced for crimes committed before 1978, under Illinois' former indeterminate sentencing scheme, which the legislature abolished in 1978. These inmates are referred to as C# prisoners because their prison identification numbers begin with the letter C, with a few exceptions.

Most C number inmates have been in prison at least 40 years, some as long as 50+ years. Many were convicted for crimes committed as teenagers or young adults. A significant number of these inmates would be out of prison had they been sentenced under the determinate sentencing scheme implemented in Illinois in 1978 when the legislature abolished adult parole.

What is a C# Parole Hearing?

C# inmates can only obtain release from prison through parole (except for a very few whose maximum date is short and will enable them to get out without parole). Each of these inmates gets a parole hearing annually before the Prisoner Review Board (PRB). The board is charged with evaluating an inmate's good behavior, rehabilitation, remorse, and plans for living arrangements if parole is granted. C# inmates overwhelmingly are mature, accomplished, remorseful, and have exemplary disciplinary records and low recidivism rates. However, since 1984, only between 1 and 4% of these prisoners have been released!

Why C# Inmates Need Attorneys / Legal Advocates!

Without representation C# inmates rarely have a chance of being paroled. This is because despite their exemplary records and accomplishments, the PRB tends to focus heavily on the original crime instead of on rehabilitation. Moreover, inmates are required to gather character letters and formulate a solid "parole plan" for when they are released, which is nearly impossible without help from an advocate on the outside.

How Can You Help?

We need volunteer attorneys (or law students) willing to represent C# inmates at their parole hearings. This involves meeting the client, gathering mitigation material, helping the inmate make a parole plan, submitting a parole petition to the parole board, and then arguing before a member of the PRB and later the entire parole board why your client deserves to be paroled.

Section III

CASE LAW, STATUTES, RULES, PRB INFORMATION

The parole board has almost complete discretion in deciding whether to grant or deny parole. And unfortunately, their decision to deny parole is essentially unreviewable by the courts. For this reason, convincing the parole board to grant your client parole is often an inmate's only option of ever getting released in his or her lifetime.

PRIMARY CHARACTERISTICS THE PRB CONSIDERS FOR PAROLE

The PRB rules specify that granting parole is "an exercise of grace and executive discretion" as defined by the statute. The PRB will not grant parole if it determines:

- There is substantial risk that the prisoner **will not conform** to reasonable conditions of parole;
- The prisoner's release at the time would **deprecate the seriousness of the offense** or promote disrespect for the law; or
- The prisoner's release would have a substantially **adverse effect on institutional discipline**.

The primary facts the PRB considers in making parole decisions are listed below by category:

Criminal history

Aggravating factors: Violent behavior; substance abuse; gang affiliation; incarcerations and parole or probation violations or revocations; emotional instability; failure to get treatment; and juvenile record.

Mitigating factors: Attempt to get treatment for alcohol/drug abuse followed by reduction in use; and evidence of responsibility and stability, as shown by demeanor and conduct at the hearing and by Dep't of Corrections' records.

Committing Offense

- 20 IL Admin. Code 1611 Aggravating factors: Major or permanent injury to victim; forethought and planning; use of a weapon; multiple victims; length of sentence; trial judge's recommendation; type of victim (senior citizen, youth, handicapped, public safety officer, etc.); conduct showing particularly heinous disregard for human dignity or life; protests from victims, prosecutors, and the community; aggravated factors listed in the statute; and a high "severity or recidivism index."
- 20 IL Admin. Code 1610 Mitigating factors: Playing a peripheral role in the crime; demonstrating remorse; evidence of strong provocation by the victim; mitigating factors listed in the statute; and a low "severity or recidivism index."

Institutional Adjustment

Institutional assignments; grade status; good behavior, time loss or credits; completion of academic courses or vocational training programs; conduct reports; success with counseling; psychological or psychiatric reports; helping other inmates. On the other side: number of tickets; escape attempts; time in segregation; and possession of weapons or drugs.

Parole Plan

The PRB also considers the prisoner's proposed release plan. This includes letters of support; plans for residency and employment; the location of parole; and vocational skills. It also considers the likelihood that the prisoner will re-affiliate with gangs or those who had a bad influence in the past.

STATUTES

It will be helpful for you to familiarize yourself with the relevant portions of the IL Parole Statute:

730 ILCS 105 - Open Parole Hearings Act

- 105/1. Short title
- 105/5. Definitions
- 105/10. Victim's statements
- 105/15. Open hearings
- 105/20. Finality of Board decisions
- 105/25. Notification of future parole hearings
- 105/30. Board rules
- 105/35. Victim impact statements

As well as with the relevant portions of the Illinois Administrative Code:

20 Ill. Adm. Code 1610.10 - Prisoner Review Board

- 1610.10. Administration
- 1610.20. Eligibility for Parole
- 1610.30. Preparation for Adult Parole Hearing
- 1610.35. Juvenile Parole
- 1610.40. The Adult Parole Hearing
- 1610.50. The Parole Release Decision
- 1610.60. Order of Parole
- 1610.70. Denial of Parole
- 1610.80. Conditions of Release
- 1610.90. Rescission of Parole Order
- 1610.100. Rehearing
- 1610.110. Arrangements for Parole
- 1610.120. Conditions of Parole or Mandatory Supervised Release
- 1610.130. Length of Adult Parole and Discharge
- 1610.140. Revocation Procedure
- 1610.150. Revocation Hearing
- 1610.160. Dispositions
- 1610.170. Good Conduct Credit Revocations and Restorations
- 1610.180. Rules Governing Petitions for Executive Clemency

** if you do not have access to Westlaw, we will be happy to provide copies of statutes and case law.

CASES

Here are some relevant cases:

- **Hanrahan v. Williams, 174 Ill. 2d 268 (Ill. 1996)**

Prisoner was found guilty of murder and sentenced to serve concurrent indeterminate prison terms. Prisoner challenged prisoner review board's decision to deny him parole. Illinois Supreme Court denied prisoner's ability to review the denial of parole, stating that the Illinois legislature had intended for the prisoner review board to have complete discretion in determining whether to grant parole when the denial of parole was not mandated by statute.

- **Heidelberg v. Illinois PRB, 163 F.3d 1025 (7th Cir. 1998)**

Heidelberg and Sharp were indeterminately sentenced to prison for the murder of two police officers. Both Heidelberg and Sharp were denied parole on several occasions. After the last denial, they filed a petition to the district court to review the decision, which was dismissed. They then filed a certificate of appealability with the Seventh Circuit Court of Appeals.

The Seventh Circuit ruled as follows:

Like all applicants who seek certificates of appealability, Cleve Heidelberg and Bruce Sharp must make a substantial showing of the denial of a constitutional right before they may appeal from the denial of their joint request for relief under 28 U.S.C. § 2254. The petitioners attempt to make the requisite showing by claiming, principally, that the Illinois Prisoner Review Board (Board) deprived them of due process by denying them parole. Based on recent Illinois Supreme Court case law, we conclude that it is not and, accordingly, deny the petitioners' request for a certificate of appealability.

We believe that Illinois' statutory criteria and the Board's rules do not provide standards for release on parole sufficiently objective to allow a court to evaluate the Board's decision to deny parole. We thus conclude that the legislature, in drafting the statutory language, intended the Board to have complete discretion in determining whether to grant parole when the denial of parole is not mandated by statute. It is well established that there is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence.

- **Miller v. Alabama, 567 U.S. 460 (2012) ****

A United States Supreme Court case in which the Court held that mandatory sentences of life without the possibility of parole are unconstitutional for juvenile offenders. The ruling applied even to those persons who had committed murder as a juvenile, extending beyond the Graham v. Florida (2010) case, which had ruled juvenile life without parole sentences unconstitutional for crimes excluding murder.

In Montgomery v. Louisiana (2016), the Supreme Court determined that Miller v. Alabama must be applied retroactively and that inmates previously sentenced to life as minors must be re-sentenced or made eligible for parole.

***Miller and its progeny cases are not about parole; however, they are relevant as some C#s were juveniles when their crimes were committed and are essentially serving life sentences if the PRB continues to refuse to parole them.*

MEMBERS OF THE PRISONER REVIEW BOARD

There are currently 15 members on the PRB. The current Chairman is Craig Findley. Members are appointed by the governor and hold six-year terms; they can be reappointed. The members and their bios are listed on the PRB website. www2.Illinois.gov/

When the C Number prisoners were sentenced, it took two votes for release; the rules were changed in 1984 (there is litigation pending). Now, it requires eight votes for release of an inmate when the board is fully staffed or a majority of all members if there are vacancies. Importantly, you need a majority of all active members to win parole, regardless of how many board members are present at the actual hearing.

IMPORTANT: Information about Members of the Board as well as forms, contact information, and updated schedules for institutional hearings and en banc hearings can be found on the Illinois PRB website:

<https://www.illinois.gov/prb/Pages/default.aspx>

Hearing dates change frequently without notice so this website should be checked frequently when your hearing is coming up!

Monthly PRB Update

We send out a monthly email to those representing and following C# issues. This email includes a summary of the last *en banc* hearing for that month and any relevant updates on parole issues or the PRB members. We will add you to this list so you can be kept up to date. You can unsubscribe at any time.

Section IV **PAROLE PROCESS**

The C# Parole Process - Chronology / Outline

1. Get assigned a C number inmate who you will represent (we have a list)
2. Request a scanned copy of the John Howard Association file for your inmate from Sara Garber sara@thefordgarberlaw.com. The JHA file may include notes from prior *en banc* parole hearings, prior parole submissions, and past letters from the client.
3. Make contact with your client (via prison call or legal mail) to introduce yourself and confirm representation; also send client a questionnaire if he had not filled one out recently to learn more about his case, his mitigation/rehabilitation, his support on the outside, and his parole plan

*Sample letters to client and questionnaires are in this manual

4. Submit your Appearance to the Prison Review Board
 - Appearance form is on PRB website, along with other useful information: <https://www.illinois.gov/prb/Pages/Operations.aspx>. One copy of the form must be sent to the PRB and the other copy must be sent to the State's Attorney in the county where the case arises

- Illinois Prisoner Review Board
Att'n: Indeterminate Case Liaison
319 E Madison Street, Suite A
Springfield, IL 62701

Phone: 217-782-7273 / Fax: [217-524-0012](tel:217-524-0012)

Cook County Assistant State's Attorney for C# cases:

- Jolie Miller
Assistant State's Attorney
2650 S. California Avenue Suite 11C50
Chicago, Illinois 60608

Phone: 773-674-6935 / fax: 773-674-2898

5. Find date of your client's Institutional Hearing (IH) and *En Banc* Hearing (*En Banc*) from the PRB website. The PRB website has continually updated lists of dates for institutional hearings and *en banc* hearings – check frequently as information changes. If your hearing is far out, the precise dates may not be known, but you should be able to get the month and year by contacting the PRB. Janet Crane is a great resource there: Janet.Crane@illinois.gov
6. Arrange with PRB an opportunity to view/copy your client's PRB file, which is located at the PRB office in Springfield. This will include a comprehensive history of your client's parole case, including past votes and submissions, and past rationales for denying parole.

- Pro tip: this could be combined with a down state trip to see and interview your client as well as combined with viewing an *en banc* hearing prior to your client's hearing. This means accomplishing three things with a single trip downstate.
7. Arrange legal visit with prison in advance; then visit your client to conduct in-depth interview and to begin to prepare parole petition
 8. 30 days before IH: submit to PRB names of supporters/witnesses who will be present at the prison for the IH. Inform relevant witnesses/supporters of the date of the IH.
 - Optional: One week before IH, provide draft parole submission to Hearing Officer (HO), which is the PRB member assigned to your case. Email or fax to PRB and ask to deliver it to the HO.
 9. Prepare for and Attend Institutional Hearing. This takes place at the prison where your client is housed. This is where you, your client, and your witnesses will present your client's case for parole in detail.
 - Optional/Recommended: Within a week after the IH, call or write the HO and ask if s/he needs more information or follow up on any issues that came up at the IH
 10. 15 days after the IH your final Parole Petition is due. You must submit a copy of the petition to each board member and also send a copy to the State's Attorney
 - It is essential for your final petition to arrive at the PRB office by the date of the *en banc* hearing that occurs the month before your client's *en banc*. This is usually, but not always 15 days after your IH.
 - **This means you may need to submit your petition prior to the 15-day deadline to ensure it arrives at the PRB office in time for board members to pick up their copy at the *en banc* prior to your client's.**
 - **IMPORTANT ** We ask that you submit a draft of your petition to us prior to submitting it in draft or final form so we can provide constructive feedback based on our years of experience before the PRB. Please email us at:**

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 Susan Ritacca
 Aviva Futorian
 Ken Berry

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 futorian@outlook.com
 WBerry@winston.com

11. Optional/Recommended: Attend Opposition Hearing at State's Attorney office

- The State's Attorney for the county where the underlying offense occurred may notify you of a scheduled date and time for an opposition hearing. This hearing occurs at the State's Attorney office before one or more of the PRB members. During the hearing you are not allowed to comment, but you may take notes. If you do not receive notification but would like to attend the hearing, contact Tracy Buckley at the PRB for more

information. Regardless of whether you attend this hearing, you will receive a copy of the State's opposition petition prior to your client's *en banc*.

12. At least 5 days before your client's *en banc*, State's Attorney submits opposition/protest petition to PRB with a copy to you.
13. Optional/Recommended: Immediately send to all PRB members (via email or fax to PRB) a short response to the State's Attorney's Opposition Petition; copy ASA.
14. Prepare for and attend your client's *en banc* hearing in Springfield. Confirm date, time, and location on PRB website. Here, your client's case is presented before the entire board by the HO and the board votes on whether your client will be paroled. You can only give a short statement of omissions, corrections, and clarifications.
15. Inform client and/or family and friends of the result; if denied parole – take stock of what could be improved next year and areas for improvement.
16. (Extremely rare): Request a rehearing.
17. Decide if you will represent client again in the future or not. This is not required, but often attorneys grow close to clients and choose to re-represent. If you choose not to – reach out to us so we can see if we can find other representation.

C# Parole Process – Comprehensive Step by Step

A. Client Contact / File Review

The most important initial question you want to answer is why your client has not obtained parole over this very long period.

Best sources: your client, rationale sheets, *en banc* notes in JHA files, PRB rationales, disciplinary history, the appellate opinion in the case for which he is in prison, other experienced C# attorneys who may have insight.

The next important question to ask is how are you going to combat the hurdles that have resulted in past denials and present your client's case in a way that will be fresh, persuasive, creative and will showcase the humanity and rehabilitation of your client in a way that has not been done before.

Best sources: your client, your own creativity and hard work, thinking outside the box, observing other *en banc* hearings to gain insight into parole board members' thought process, brainstorming with experienced C# attorneys who have been down this road.

1. Initial Contact

Send a letter of introduction to your client, including a questionnaire about his case, who his support system is on the outside, his background, his parole plan, and his accomplishments in prison. His answers to the questionnaire will give you insights into your client and will also give you leads on important information for your parole petition.

- Include inmate number and mark "legal mail – privileged" on all envelopes and letters you send in order to obtain privacy and expedited delivery from the prison mail room.
- Consult IDOC website and legal department for all rules related to correspondence with inmates and legal visits

2. Gather / Review Materials

Gather Initial Materials including JHA file notes, PRB file notes, materials from previous attorney (if there is one), and materials from client and client's family/support system.

- **JHA File** - volunteers from the JHA have attended and taken notes at nearly every *en banc* hearing over the past 10 years. JHA keeps a file for every C# inmate which includes those notes and on occasion other materials like prior parole petitions and client letters to JHA. This is an essential resource.
 - Dan Hoffman is the custodian of the material at JHA and Sara Garber has been creating an e-file for each C# by converting the paper files to electronic files. Email Sara first to see if she can send you an e-file and if not she will direct you to Dan to set up a time to get a copy of your client's JHA file:

- Sara Garber sara@thedfordgarberlaw.com
- Dan Hoffman dhoffman@thejha.org

- **PRB file** – Schedule in advance with PRB a time to view/copy your client’s PRB file, which is located at the PRB office in Springfield. This file will include a comprehensive history of your client’s parole case, including past votes and submissions, past disciplinary infractions, past rationales for denying parole, and past State’s Attorney opposition letters.

- Illinois Prisoner Review Board
Attn: Indeterminate Case Liaison
319 E Madison Street, Suite A
Springfield, IL 62701

Phone: 217-782-7273 / Fax: [217-524-0012](tel:217-524-0012)
Contact for C#s: Janet Crane or Tracey Buckly

- What to look for in the PRB file:

Past rationales These are usually written by the interviewing board member and can provide clues as to why your client has been denied parole.

Past State’s Attorney’s protest letters In some cases, the State’s Attorney’s version of the crime changes or becomes inflated over the years or misrepresents the factual record. You may want to point that in your petition, depending on how important it is, and your strategy.

Disciplinary history. This is a log of prior tickets or infractions your client has received while in custody. Many violations are for minor things (like having too many books) and yet the State’s Attorney or the PRB may have incorrect information or hold this strongly against the client. Getting the details of the infractions and discussing them with your client will help you be prepared to combat claims that your client is misbehaving, when the infraction is often quite minor or can be put in context. If you can’t get this from the PRB file, you can get it from the client or a counselor.

Practical Trip: Observe an En Banc Hearing In Advance

If you can arrange it, it is ideal to observe an *en banc* hearing prior to attending your client’s hearing so you can get an idea of the process. If you can, combine your trip to see your client’s file with an *en banc* hearing so you can kill two birds with one stone.

Gathering and reviewing information will be the most time-consuming part of the process. Since the client has been incarcerated for over 36 years and has been through 20+ parole hearings, there will be a wealth of information to gather, digest, and in some cases plan to rebut.

3. Set up a legal visit with client

It is important to set up a legal visit with your client as soon as practical to get to know your client, to gather important materials from them, and to talk confidentially about the case, strategy, etc. C# inmates are generally the most sophisticated of the prisoners and will have many good ideas. They have attended

parole hearings for years on their own and will have important insights. Attorneys are advised to listen to the client's ideas before starting to work on their own.

- Legal visits can be set up by calling the prison's legal department. They will tell you what information they need, usually by fax, sometimes by email. Make sure to consult IDOC website for all rules and regulations regarding attorney visits.
 - After the first in-person visit, legal calls and letters usually suffice. Legal calls can be arranged by calling the IDOC legal department for the prison and setting up a legal call in advance. Keep in mind, these calls are supposed to be private but are not always and could be monitored.
- What to focus on in client meeting:
 - Information you obtained from the JHA and PRB files
 - Background on the crime that led to the imprisonment. Review the State's Attorney's Statement of Facts with the client, and, if necessary, review the original court file to rebut the statement.
 - Typically, at this stage, your client has accepted responsibility and shows remorse (which are typically considered necessary to be granted parole). For this reason, it is not usually advisable to focus on the original crime or to quibble over details where your client and the state's version differ. The parole board will tend to believe the state and will use this as an excuse to say your client is not remorseful or is still "lying" about the crime. That said, sometimes the state's wrong (or misleading) "statement of facts" is what is keeping your client locked up, and sometimes the board gets hung up on random details of the state's version of the original crime that need to be corrected or explained – in those cases it may be necessary to explore more about what happened in the crime, and at times, consult the original court file.
 - Getting old files can be tricky. However, try the clerk's office in the courthouse, sending a FOIA request to the local police department, or contacting the local court reporter's office to procure transcripts. Also, your client (or his prior attorney) may have a copy of what you need.
 - Personal history / family background / what lead to crime
 - Prior infractions or tickets while incarcerated
 - Identify potential witnesses: family, friends, inmates, counselors, teachers, religious leaders, etc. Most valuable are staffers and ex-staffers who might be willing to testify or submit evidence about the inmate.
 - Review any appeals, post-convictions, or clemency petitions that the client may have filed *pro se* and look for inconsistencies with client statements or ASA version of events, which will have to be explained.
 - Find out about prior gang activities and whether or not he has renounced.

- Develop a parole plan. Where he will live and what he will do if he obtains parole? Who will be his support network for emotional and financial support? Can he find a job? What community contacts/resources do you or other C# attorneys have to help get a solid parole plan in place?
- Review his medical status (physical problems can be a benefit to the extent the board no longer sees your client as a threat; however, setting up medical services on the outside can be a challenge and mental health problems can be deemed a concern)

Practical Tip: Save Time and Money by Combining Trips

Some C#s are housed in prisons in western or southern Illinois—many hours from Chicago. Some visits may therefore require an overnight trip (or great stamina, if trying to make the trip in one day). Moreover, Springfield, where the PRB office is located, is 3 hours south of Chicago. Accordingly, often, the best use of time and money is often to combine your 1) legal visit; 2) viewing of PRB file; and 3) viewing an *en banc* hearing into a single trip downstate. This way you can get a sense of what the *en banc* is all about as well as meet your client and see your client's file in one trip.

For example, you could drive to the prison one morning, visit with your client in the afternoon, stay overnight, and then the next morning drive to Springfield and observe an *en banc* hearing to get an idea for it, and then view/copy the PRB file for your client while you are there.

Important considerations:

- Plan ahead - both the prison visit and the file viewing need to be arranged in advance.
- *En banc* hearings occur only once a month on the 3rd or 4th Thursday at 8 or 9am. Check the PRB website.
- JHA sends a volunteer every month to the *en banc* hearing, so you can always reach out to Dan, Sara, Susan, or Aviva to coordinate with whoever will be there already on a given month
- Driving is an option but taking the Amtrak train is sometimes a better option (train runs to Springfield, Joliet, Galesburg and other prison cities). The Amtrak train has wifi and power outlets at each seat, so you can get work done on the train. For some, this is a preferred option.
- Basic travel expenses for gas and hotel can sometimes be reimbursed by JHA for attorneys who cannot subsidize the finances of representation. Reach out in advance if this is an issue for you.

B. Prepare Your Parole Petition

1. Gather Follow Up / Mitigation Material

After reviewing the initial file materials and meeting with your client you should have a much better understanding of your client's case as well as the strengths and weaknesses for parole. Additionally, you should have a growing familiarity with your client's background, rehabilitation and accomplishments, and family connections that could lead to a solid parole plan.

Accordingly, the next step is to gather more materials to support your client's parole petition, such as transcripts, awards, character letters, etc. and to start developing your client's parole plan – housing, job, family support, etc.

- Be creative and think outside the box depending on your client's own strengths
- Reach out to other C# attorneys who can give ideas and suggestions
- Review sample petitions to get ideas for what you can present to the board

Your client can be a huge help with gathering information for the petition. It is a good idea to follow up with a letter to your client after your visit, reiterating your plan and reminding them of the tasks on your to-do list that they can help with.

Some things that clients can help coordinate for you are:

- Reach out to family and friends and solicit letters of support and housing options
- Reach out to fellow inmates, counselors, religious leaders etc and solicit letters of support
- Send you transcripts, certificates, resume or list of accomplishments /jobs
- Draft biographical statement explaining crime, transition and reason client deserves parole
 - This can be something you work on with your client
- Send you examples of writings, art or other talents and projects

2. Draft Parole Submission

Your petition can take any number of forms, but ultimately should be a persuasive petition as to why your client is deserving of being released on parole. In your petition, you should showcase the transition your client has made from the young person who committed the crime to the mature, kind, accomplished, and remorseful person they are today. You should also address any disciplinary issues and set out a detailed parole plan as to how your client will transition to free society. You should include as exhibits any character letters, certificates, photos, job letters, or any other materials you will rely upon.

A typical parole petition includes:

- **Background** about your client
- **Crime** - Short discussion of the crime focusing on the client's acceptance of responsibility/remorse. Don't make excuses or minimize (the parole board considers it a lack of remorse), instead where appropriate provide context.
 - Was your client a juvenile at the time of the crime? This is not an "excuse" according to the parole board, but it can and should be a factor to consider in light of new psychological evidence about the development of the brain and in light of the Miller cases (*see above*).
- **Disciplinary history** – show your client's improved performance over the years and provide context or correction about tickets when appropriate
- **Character/Support letters** describing the good things your client has done, from:
 - family
 - friends

- religious leaders, educators, or program coordinators in the prison
- IDOC personnel and ex-personnel (if you can)
- inmates and ex-inmates (including fellow C numbers who have been released)
- **Evidence of achievements** while in prison, including:
 - copies of diplomas, vocational certificates, and awards
 - certificates of involvement in prison organizations
 - articles published by the prisoner, photocopies of artwork, etc.
- **Statement** – you can help your client write a biographical statement or statement of remorse
- **Letters offering employment** - on letterhead and signed
- **Housing Plans** (including letters attesting to the housing option). It is especially helpful to get approval from a **halfway house as well as family**.
 - **Housing** – this can be one of the most difficult parts of setting up a parole plan, but it is essential to find good housing for your client.
 - **Family** - Does your client have family that will house him – if so you need to explain why this is a good place and provide letters showing this as an option. Whoever will house him should send a written letter and attend the parole hearings to show their commitment.
 - **Halfway house** - the parole board, however, prefers an inmate start out at a halfway house – which usually involves re-entry services such as a curfew, classes, and other services. It is best if your client can start out at a halfway house with a family option they can go to after.
 - **Due to budget crisis halfway houses are harder and harder to come by.** St. Leonard's Ministries has been a long-time supporter of C numbers and is very well liked by the parole board. Unfortunately, the new Admissions director has on occasion refused C# inmates without good explanation. However, it is still worth a try to see if your client can get approval at St. Leonard's or another halfway house, including halfway houses in other cities or even states.
 - Applying to St. Leonard's requires advanced planning. Typically you or the inmate must write to them and request an application. They will mail the application to the inmate. Then, the inmate fills it out and should send a copy to St. Leonard's and you. Eventually St. Leonard's will approve or deny housing. If you run into a denial, reach out to us and we will see if we can help.
 - St. Leonard's Ministries 2100 W Warren Blvd, Chicago, IL 60612; Phone: (312) 738-1414
 - Another great Halfway House Option: Bridges to Freedom!

- **Out of state living arrangements** are possible (and sometimes preferred by the board) but it requires getting Interstate Compact Act Approval to parole out of state, in advance. If this applies to you, reach out to field services and ask them how to begin approval for interstate parole plans.
 - This is a cumbersome process and often field services refuses to start the process until the client gets paroled, which is often too late given that you need to show the parole board a solid parole option before they will be granted parole. However, many have been successful in arranging out of state placement for C numbers. Feel free to reach out to us with questions if this applies to you.
- **Sex Offender Registry** – some inmates whose victims were under 18 are incorrectly placed on the “sex offender registry” instead of the “youth murder registry.” If this is the case, you need to petition the Illinois State Police to move him to the correct registry so that he does not have to register as a sex offender and can actually have a shot at finding placement at a halfway house. Reach out if this impacts you.
 - A great resource for registry issues: Tracie Newton Illinois State Police, Sex Offender Registration Unit; 217-557-1945; Tracie_Newton@isp.state.il.us
- **Any other documents** that are evidence of the client’s rehabilitation and good character
- **Medical**
 - This is a double-edged sword. If your client is in bad health, the board may see him as not a risk and release him. However, if your client needs medical services (like Dialysis) you will need to show the board how he will manage his health concerns on the outside. Mental health issues must also be handled with care because this can be used against your client but also can help humanize or provide context for your client’s actions.
- **Statistical considerations**
 - It can be helpful to include statistics about the low recidivism rates of murderers and inmates over 50, as well as statistics regarding the average national sentence served by murderers (much shorter than most C#s) and about C numbers who have been paroled and have gone on to lead productive law abiding lives. Some of these materials are included in the samples.

Deadline for Petition

Your final parole petition is due 15 days after your institutional hearing. It may be advantageous that one week before the IH you provide a draft parole submission to the Hearing Officer (HO), which is the PRB member assigned to your case. You will not know who the officer is so instead you can email or fax it to the PRB and ask them to deliver it to the HO. This way, the hearing officer can read your petition prior to the hearing and will be familiar with your arguments in advance.

We call this a “draft” petition simply because it is not technically submitted or final, you can still make changes to the petition after the institutional hearing but before it is due. However, it should be in very close to final form since it will be reviewed by the HO. The opportunity to make any last-minute changes between the institutional hearing and the due date can be particularly helpful if contradictions or issues arise during your institutional hearing that you want to fix in your final petition or if you gain suggestions or insights from the hearing officer that you want to include.

Other times you may prefer to not submit anything in advance and to “feel out” the HO or take the temperature of the IH before you submit anything – this is especially true if you have some tough issues or aren’t sure how you want to present any given issue.

Technically, you have up to 15 days from the IH to submit a copy of your final petition to each board member and also send a copy to the State’s Attorney from the county where the original crime took place. However, it is essential for your final petition to arrive at the PRB office by the date of the *en banc* hearing that occurs the month before your client’s *en banc*. This is because many board members check their mailbox at the PRB office only once a month when they are there for the *en banc*. If they don’t get it in the *en banc* before your client’s they will not get it until the day of your hearing and therefore will not have time to read it.

This means you may need to submit your petition prior to the 15-day deadline to ensure it arrives at the PRB office in time for board members to pick up their copy at the *en banc* prior.

You can send your petition via email or fax to the PRB, but it is best to also mail or hand deliver a hard copy to each board member at the PRB office. Feel free to coordinate with Dan, Aviva, Sara, or Susan about which volunteer will be attending that month’s *en banc* - they could possibly hand deliver them for you.

C. Institutional Hearing

1. Your Witnesses

Prepare and coordinate with your witnesses in advance.

Witness Preparation

- 30 days before the IH you must submit to the PRB, the names, addresses, and phone numbers of the people you want to attend the institutional hearing.
- You will also need to meet with and prepare your witnesses:
 - Not only should you determine what role each witness will play in the interview, but you should also guide witnesses and, if necessary, practice role-playing in order to prepare them. You should critique each witness and analyze each of their strengths and weaknesses so that they put their best foot forward. This analysis should include assessing verbal skills, eye contact, dress, appearance, and/or posture in addition to the content of testimony. It is important to make sure that each witness adds value to your overall presentation. While it is advantageous to have numerous supporters attend the

hearing, it is not necessary to have every one of them speak. Generally, the best witnesses are family members, friends, clergy and future employers.

Client presentation:

You will also need to prepare your client to testify at the hearing. Especially if your client is remorseful and articulate, it is helpful for your client to be prepared to talk genuinely about remorse and about his goals and plans for succeeding on the outside.

Helping your client prepare for the institutional hearing:

1. Client must be willing to take responsibility for the crime.

- He should not act impatient and try to **get “beyond the crime”**
- He should not try to **minimize** or **justify** his role.
- Admission must be full. Can’t say “the State didn’t prove its case.”
- If his account of the crime differs from the facts proved at trial or claimed by the State’s Attorney, he should be ready to present reasons/evidence disproving its version.
- If your client has changed his story, help him prepare to explain why

2. Discuss the context of the crime.

- What was going on in his life at the time of the crime? (But be careful not to make it look like an excuse.)

3. Is he remorseful?

- What does it mean to “be remorseful”?
- Does he understand how the victims feel, what they went through. How does he feel about the people who are dead because of what he did? What about all the people connected to them? Family/partners/kids?
- Has he ever thought about healing the harm he caused the victim? If so how would he want that to happen? If he could speak to the victim’s family, what would he say?

4. Discuss his disciplinary record

- If he cannot show an excellent ticket-free behavior, does he have an explanation? Is his record better recently? A bad early period can be good. You can point out how it shows that he has changed.

5. His Accomplishments

- Here’s a chance for him to show the PRB member his accomplishments. What accomplishments has he achieved while in prison: personal, professional, educational? Give full details.
- Has he written an article, helped others in prison, held a job? Started a mentorship program? Lead a religious service or cultural event? Saved a life? Prevented violence?

- Coach him to be careful not to act like he feels he “deserves” parole.
- While he can talk about his accomplishments, **it is you who can brag**

6. What would he and you want the PRB member to know about him?

- Who inspired him as a child? Who inspires him now? What did he do to help others? What does he hope for? What are his dreams for future?

7. Does he have outside connections/support system?

- Housing
- What do these connections mean to him? What is his greatest fear if allowed to re-enter society? How will he ensure he will succeed and overcome any fear?

8. What are his plans for parole?

- Where will he live/work? How will he get daily necessities, travel, etc? Who will support him emotionally financially?

2. The Hearing

The institutional hearing takes place at your client’s prison and usually begins around 9am.

The hearing is in a room in the prison and will include you, your client, the hearing officer assigned to hear your client’s case, and any witnesses you bring.

The IH is a very informal process, and the procedure followed is generally entirely up to the particular board member conducting the interview. Most Board members allow attorneys substantial leeway in making a presentation. This may include an opening statement and deciding the order in which supporters will speak. The HO usually asks questions directly of the prisoner, the witnesses, and the lawyer.

There is no limit to the time you can talk, and with 30 days prior notice, prisoners can have as many people as they want speaking on their behalf. The HO will record the hearing.

Opening Statement:

It may be helpful for the attorney to provide an opening statement that sets the tone for the hearing and sums up why the prisoner should obtain parole. At this point it is important to acknowledge the prisoner’s involvement in the crime and his remorse for it. Do not try to “justify” the crime or “minimize” the prisoner’s role. You should spend as little time as necessary on the crime and focus instead on the prisoner’s record since the crime. Occasionally a Board Member may want to delve into the details of the crime. The key is to acknowledge both responsibility and remorse, and then move on to issues that are strengths.

Body:

- **Disciplinary record**—It is important to highlight your client's positive disciplinary record as evidence of a transformation. Additionally, at this point you may choose to point out any errors in the disciplinary record that bear negatively on your client
- **Accomplishments**— Your hearing should focus on what your client has done with his life while behind prison walls. You should highlight all of your client's educational, vocational, and/or personal accomplishments while in prison. Records of these achievements should be included in your parole packet and should be noted as proof of a positive change in your client.
- **Institutional support**—This is particularly important. Where you have not been able to get statements in writing from staff, you should have a list of names of staffers to give to the hearing officer and invite him to question them later. If possible, you may even be able to get a staff person to stop in at the hearing and talk to the hearing officer about the client.
- **Family and Friend support** – highlight any inmate letters or family letters that showcase the support the client has
- **Parole plans**—The PRB wants to see a well-developed parole plan. Where will your client live? Where will he work? What kind of support system will he have? A thorough parole plan is of paramount importance to the PRB since the Board's main concern is that your client becomes a constructive member of society rather than a threat to public safety. It is a good idea to arrange for your client to stay at a **half-way house**, even if he has family who will take him in.

Client presentation:

Especially if your client is remorseful and articulate, it is helpful for your client to be prepared to talk genuinely about remorse and about his goals and plans for succeeding on the outside. Prepare and roll-play with your client and ensure his demeanor and body language are effective. Practice how to respond to weaknesses in the case. Recommend your client be prepared to answer the biggest question – why is he deserving of parole.

Conclusion:

The key to success is convincing the hearing officer that your client is not the same person who committed the crime. You need to “paint a picture” using all the information available to you and employing all of your communication skills and creativity. In particular, you will focus on rebutting the reasons he has been denied parole in the past. Your hearing officer must recognize that a metamorphosis has occurred within your client.

Additionally, you must realize that the parole board views parole as a grant of grace not a right, no matter how weak the case was or how young your client was when the crime was committed. Humility is key in convincing the board member to parole your client

3. Post-Interview Etiquette

Following the IH, you might ask the HO if there is any other information or clarifications you can provide. You should also exchange business cards and let him/her know that you are readily available to answer any questions. Also indicate you will be submitting your final draft shortly and see if you can email it to them.

D. Opposition Hearing

In large counties with populations of 1.5 million people or more, the State's Attorney has a standing opposition to parole for any prisoner whose case was prosecuted in that county. To protest parole, the State holds Opposition Hearings (OH), where the State's Attorney and victims or other concerned citizens present testimony to one member of the Prisoner Review Board. In large counties, these hearings are automatic, and the State is not required to give notice to the petitioner or his counsel.

In smaller counties, State's Attorneys may choose whether to hold an opposition hearing. If they do conduct an Opposition Hearing, the State's Attorney must provide you with notice of such hearing and you can attend. Opposition Hearings are held after the IH. Counsel for the petitioner may attend the Opposition Hearing but is not permitted to be present during testimony by a victim or family member. (730 ILCS 5/3-3-4(e))

State's Attorney's protest letter

State's Attorneys will frequently submit letters in opposition to parole to the Prisoner Review Board. Cook County prosecutors submit these letters in every case, regardless of merit. If a State's Attorney submits a letter in opposition to parole, s/he is required to send a copy of that letter to the petitioner's attorney within 5 days of the *en banc* hearing, *via* certified mail.

Response to State's Attorney's letter

While a letter from you responding to the State's Attorney's letter is not required or even specified in the rules, it is a good idea to provide a short one to all PRB members. It is rare that the State's Attorney's letter is not inclusive of some errors, which should be corrected or responded to. It is also an opportunity for you to remind the PRB members of relevant facts of your client's case, including the fact that he takes full responsibility for the crime.

E. En Banc

On the third or fourth Thursday of the month, all members of the PRB convene in Springfield to deliberate and vote on parole for cases heard the previous month. These meetings are called *en banc* hearings, or *en bancs*. The exact dates are listed on the PRB website. The *en banc* hearing is public.

At this hearing, each member who interviewed a candidate presents the case to the other members of the PRB and makes a recommendation for or against parole. The member who presided over the OH may also make a presentation. The other members will ask questions, discuss the case, and vote. A majority of all appointed members is required to obtain parole, even if some of the Board members are not at the *en banc* hearing. You can record the hearing and take notes.

After discussing a case, one person in support of and one in opposition to parole are allowed to address the Board. As the attorney, you can speak at this time. But that means no one else for your client can.

Use your judgment. These comments are limited to five minutes and to correcting misstatements or filling in omissions not to making “closing arguments” or belaboring points. (730 ILCS 5/3-3-2(s)(2)).

F. Continuances.

There are times when the HO may request a continuance because, e.g, s/he needs more information. If the member continues a case, he or she must provide notice to the State’s Attorney and the petitioner’s attorney within five business days. (730 ILCS 5/3-3-4(e)).

You can also request a continuance in writing in advance. Your client must sign off on it. This is not encouraged, but is an option if for whatever reason you need more time.

G. Executive Session

The board may go into executive session during an inmate’s *en banc*. The reasons usually involve discussion of: (1) victims’ statements of opposition which are protected from public access; (2) alleged gang activity by the inmate, as reported by DOC’s gang “intelligence” unit; (3) the inmate’s juvenile record. You will not be allowed to attend this portion of the hearing. However, attending the Protest Hearing at the State’s Attorneys’ office will give you some insight into what is being addressed here.

H. Sets

C# inmates are supposed to have hearings every year, unless a majority of the board decides that they would never vote for the inmate for the next 2, 3, or 4 or 5 years, in which case, they vote for a multi-year “set”, which means the inmate will not come up again for parole for that many years. If you think your client may be given a set, it is important to argue against this set so the client has a chance next year. Sets are supposed to be rare and reserved for the most heinous of crimes or the most undeserving of parole, however, lately they have become more common and we need to fight hard against them.

I. Rationale

After the *en banc* hearing, the PRB generates a “rationale,” written by the HO. The rationale should indicate why the inmate was denied parole. You can request a copy of it from the PRB’s attorney. The inmate receives a copy, via his warden, which becomes part of his file.

J. Rehearing

There is no formal appeal process. However, if the presentation at the *en banc* hearing contained significant factual errors, you may be able to request a rehearing. You can do this by sending a letter to the Chairman. Rehearings are rare, especially in light of the rule permitting parties to correct errors at the *en banc* hearing. Authority for a rehearing is found in the Illinois Administrative Code, which states in part: “[A] rehearing may be requested by the person who was denied parole or another on his behalf. Such request...must set forth...new facts or extraordinary circumstances which have arisen subsequent to the time of the interview...which have not been previously considered.” 20 Ill. Adm. Code § 1610.100 (a)(2) (2005).

K. Clemency

If you hit a brick wall in terms of parole, you may decide to file for clemency. This is an unlikely course and is not discussed in this manual.

Note: *You will have no obligation to continue to represent a client if he does not get parole. However, please reach out to us if you can no longer represent your client so we can try to find new representation and can utilize the work you have done to help his case going forward.*

Section V
SAMPLE MATERIALS