

Recording of parole interviews

Reasons for recording

1. To permit effective appeals

The “substantial and compelling reasons” given for denying parole to people who are statistically at low risk for re-offending are often grounded in the parole interview. The interview is conducted by a single board member, for as little as 10 minutes. Denial is commonly based on the interviewer’s conclusion that the prisoner failed to show adequate insight, empathy or remorse. These conclusions often contradict the evaluations of therapists who oversaw the person’s participation in year-long group therapy sessions. They are sometimes inconsistent with the conclusions drawn from previous interviews.

If prisoner parole appeals are restored but the interview is not recorded, the reviewing court will have no basis for determining whether the reason for decision actually meets the statutory standard. Recordings would also be available for appeals by prosecutors and victims of decisions to grant parole, which are currently allowed.

2. To allow non-interviewing board members to hear the interview before voting

For non-lifers, parole decisions are made by two members of the board, with a third member voting if necessary to break a tie. Only the interviewing member has actually seen the prisoner. Non-voting members rely on the file review and the interviewing member’s impressions. For lifers, one board member reviews the file and decides whether to even conduct an interview. If an interview is conducted and that board member recommends further action, the rest of the members must decide whether they want to proceed to a public hearing without any first-hand impression of the person. **Recording interviews would allow the other voting board members to make more informed decisions, particularly where the decision is turning on subjective assessments of what the prisoner said or did at the interview.**

3. To give the public access to a critical component of parole decision-making

Attendance at parole interviews is limited to the prisoner, his or her representative and institutional personnel. **Having recordings available would allow the public to better understand and assess the process for making parole decisions generally and the basis on which specific controversial decisions were made.**

4. To promote the quality of parole interviews and decision-making

Recorded interviews can be an important tool in promoting the quality of the parole process. They would be available for monitoring the performance of board members, conducting training and review by researchers evaluating parole decision-making. In addition, people have a natural tendency to perform at their best when they know they are being recorded.

Reasonableness of requiring recording

The technology for audio and video recording has become so widely available in this society that relatively little – from family gatherings to natural disasters – goes unrecorded. The nightly news often contains footage captured by surveillance cameras or shot by ordinary citizens using cell phones.

Even before recording became so ubiquitous, it was routinely used in Michigan in official proceedings. District court and administrative agency proceedings, which are not attended by court reporters, are recorded digitally or on tape so that a record can be prepared in the event of an appeal. Michigan has, for decades, recorded parole revocation proceedings because parolees have a federal constitutional right to appeal.

With improved technology, recording has become more common for police interrogations and police booking procedures. Many patrol cars now have cameras that record every encounter between the police officer and a citizen.

The Michigan Department of Corrections records every telephone call made by every prisoner at every MDOC facility and stores them for three years. They are indexed by date and time so that they can be readily retrieved for investigative purposes.

Other states record parole interviews routinely.* New York and New Jersey both have extensive appeal provisions that allow prisoners to appeal parole denials administratively and in court. Interviews are recorded in both states and transcribed as needed. Even states that do not have appeal provisions, such as Illinois, Colorado, Rhode Island and Utah, routinely record interviews so that all voting members can hear them.

* These references to other states are simply examples, not the product of a systematic review. Parole procedures are different in every state and no single source describing them is available. In addition, many states have changed to determinate sentencing. Since release decision-making is no longer done by parole boards, interviews no longer occur.