



**Indeterminate Sentence Review Board
Decision and Reasons Summary**

Name: Ostberg, Timothy	DOC#: 265243	Case Type: PAR	Date: 9/18/2024
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Note: This is a summary of the Decision and Reasons dated 9/23/2024, and should not be substituted for the full document.

Decision:

Not Parolable. Add 36 months to Minimum Term.

Next Action: Schedule a .100 Hearing approximately 120 days prior to PERD. Updated psychological evaluation before the next hearing.

Recommendations:

- **Sex Offense Treatment and Assessment Program (SOTAP), if eligible**
- **Substance Abuse Treatment, Assessment and Follow Recommendations**
- **Other Programs, if eligible. Such as: Thinking for a Change, Redemption, Bridges to Life, Alternatives to Violence, Domestic Violence Treatment**
- **Remain infraction free and have positive interactions with staff**
- **Participate in next Hearing**
- **Develop a release plan/community support**



DECISION AND REASONS

NAME: OSTBERG, Timothy
DOC #: 265243
FACILITY: Airway Heights Corrections Center
DATE OF HEARING: September 18, 2024
TYPE OF HEARING: .100
PANEL MEMBERS: Corey McNally & Jeff Patnode
FINAL DECISION DATE: September 23, 2024

I. DECISION/LEGAL STANDARD

This matter came before the above-named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for a .100 hearing in accordance with RCW 9.95.100. This statute directs the Board to not release an individual unless in the Board’s opinion his or her rehabilitation has been completed and he or she is a fit subject for release. Consequently, the Board finds Timothy Ostberg **not parolable** and adds 36 months to the minimum term.

The judge previously recommended Life Without Parole or a minimum term of 320 months and the Prosecutor made no recommendation.

Recommendations:

- **Participate in a psychological evaluation prior to the next hearing.**
- **Be screened by the SOTAP Program for eligibility.**
- **Participate in any CBT programming that is designed to reduce the risk of re-offense.**
- **He should also be assessed for substance abuse treatment and follow any recommendations.**

NEXT ACTION: Schedule a .100 Hearing approximately 120 days prior to PERD. Mr. Ostberg agreed in the current hearing to participate in an updated psychological evaluation in

preparation for the next .100 hearing. The purpose of the evaluation is to estimate the risk for criminal recidivism, potential for future violent behavior, capacity to function in a less-restrictive setting and offer a psychologically informed opinion about what, if any, supervision conditions might mitigate his risk for recidivism.

II. JURISDICTION

Timothy Ostberg is under the jurisdiction of the Board on a June 1, 1979 conviction in Yakima County Cause #79-1-00358-7 for Murder in the First Degree. The time start is June 1, 1979. The minimum term was set at 400 months from a Sentencing Reform Act (SRA) range of 239 to 319 months. The statutory maximum term is Life. Mr. Ostberg has served approximately 544 months in prison and 13 days of jail Phelan Credit during the initial period of confinement.

III. LAST BOARD DECISION

He was last seen by the ISRB on September 24, 2019 and was found not paroleable and 90 months was added to his minimum term. The Board recommended Mr. Ostberg make an effort to participate in the SOTAP Moving Forward program which is a program designed for individuals who deny the sexual component of their offense to reduce their risk. The Board also requested Mr. Ostberg participate in a psychological evaluation and if he did these things, he could request to see the Board early.

IV. OFFENSE DESCRIPTION

On May 5th, 1979, Mr. Ostberg (age 17) unlawfully entered the residence of a 21-year-old woman who lived near him while she was not home. While waiting for the victim to return home, he smoked marijuana and drank several beers. At one point, he exited the apartment and returned with a clam shovel. He hid in the victim's apartment until she returned home and he remained hidden until she went bed and fell asleep. Once asleep, he emerged and attacked her with the shovel, beating her severely about the head. He then left the residence, went to his own and washed the shovel. He then returned to the victim's residence, undressed himself, removed the victim's underpants and raped her. He stole \$50 from the victim's purse prior to

leaving the apartment to return to his home a second time. The next morning, he realized he left his shoes in the victim's apartment, so he again returned and retrieved his shoes and left the victim's apartment for the third and final time.

V. OTHER RISK RELATED BEHAVIOR

None known.

VI. EVIDENCE CONSIDERED

The Board considered the evidence presented at the hearing and reviewed **Timothy Ostberg's** ISRB file. The hearing was audio recorded and will be retained per retention schedules. Testimony was provided by the following individuals: **Classification Counselor Gregory Hopkins, and Timothy Ostberg.**

The file review included the following documents:

- End of Sentence Review Committee (ESRC) Reports: Dated: **2019 Law Enforcement Alert**
- Criminal case records: **Original Judgement and Sentence 6-1-1979, Presentence Investigation 6-26-1979**
- Psychological Evaluations: **Psychological Evaluation from Lisa Robtoy Psy.D 1-24-24**
- DOC Treatment and behavioral reports dated: **Chemical Dependency Discharge Summary and Continued Care Plan 2-14-14.**
- Risk Assessments (Static, SOTIPS etc.):
 - ***Static-99R** is an actuarial risk prediction instrument designed to estimate the probability of sexual and violent recidivism. It is the most widely used sex offender risk assessment instrument in the world.*
 - ***Hare Psychopathy Checklist-REVISED (PCL-R)** indicates the extent to which the individual has psychopathic tendencies.*
 - ***Violence Risk Assessment Guide-Revised (VRAG-R)** is a 12-item actuarial scale designed to predict violent recidivism.*
- Prior Decision & Reasons (D&R): **10-14-2019**
- DOC OMNI Records
- Other: **Community Concern Statements Dated 7-9-24; Letter from Mr. Ostberg received on 9-17-24**

It should be noted that Mr. Ostberg has attended one hearing with the ISRB since being incarcerated which was his first hearing occurring in 1999. Since then he has refused to attend all scheduled hearings until this one which he chose to attend.

Moreover, Mr. Ostberg has also chosen to not participate in any psychological evaluations since approximately 2014, the previous assessment he chose to participate in was in 2001.

Finally, Mr. Ostberg has refused attorney representation since approximately 2007 which includes this hearing.

VII. FINDINGS

1. In preparation for this hearing, Mr. Timothy Ostberg was advised of his hearing rights.
2. Timothy Ostberg appeared by video conference. Timothy Ostberg was not represented by an attorney. He chose to refuse to sign the release of information for attorney representation. He has refused attorney representation since approximately 2007.
3. The Board has considered all potential Conditions of Supervision it may lawfully impose, including all identified by the End of Sentence Review Committee (ESRC), DOC psychological evaluations, and RCW 9.94A.704. These conditions include, but are not limited to, the following:
 - DRUG / ALCOHOL RESTRICTIONS
 - ELECTRONIC MONITORING
 - GEOGRAPHIC RESTRICTIONS
 - MENTAL HEALTH TREATMENT COMPLIANCE
 - PARTICIPATION IN DRUG/ALCOHOL TREATMENT
 - PARTICIPATION IN SEX OFFENSE TREATMENT
 - PROHIBITED CONTACTS
 - SEXUALLY EXPLICIT MATERIAL
 - SUBMIT TO POLYGRAPHS

4. The Board has considered the following evidence favorable to Timothy Ostberg's release determination:

- Treatment/Programming.
- Protective factors. **He has not received any major infractions since approximately 2011 and generally is regarded to have cooperative behavior within the institution.**
- Risk Assessment Scores. **Per the psychological evaluation from Dr. Robtoy dated 1-24-24, she indicated that he presents as a low-moderate risk to reoffend based on the assessments that were able to be completed which didn't require his participation in an interview.**

Mr. Ostberg was rated a low risk on the Static 99R on 8-25-23.

- Other evidence: **Mr. Ostberg attended the hearing and stated he would participate in an updated psychological evaluation. He also stated he would consider attorney representation in a future .100 hearing.**

5. The Board has considered evidence against Timothy Ostberg's conditional release (WAC 381-60-160), examples of adequate reasons for a finding of non-parolability include, but are not limited to:

- Active refusal to participate in available program or resources designed to assist and offender to reduce the risk of re-offense (e.g., anger management, substance abuse treatment). **Mr. Ostberg has not participated in any programming since approximately 2014 when he participated in IOP, however did not participate in the additional recommended levels of SUD treatment.**

He has actively refused to participate in SOTAP or any other risk reducing programs.

- Serious and repetitive disciplinary infractions during incarceration. **Mr. Ostberg has not received any serious infractions since 2011, however, prior to 2011, he received a total of 18 serious infractions to include risk related infractions of sexually explicit materials in 2008 and 2011.**
- Evidence of an inmate's continuing intent or propensity to engage in illegal activity (e.g., victim harassment, criminal conduct while incarcerated, continued use of illegal substances).
- Statements or declarations by the inmate that he or she intends to re-offend or does not intend to comply with conditions of parole.
- Evidence that an inmate presents a substantial danger to the community if released.
 - **He has also refused to participate in psychological evaluations since 2014**
 - **He has refused to attend an ISRB hearing since 1999.**

6. The Conditions of Supervision, and any favorable evidence noted above considered by the Board would not sufficiently reduce the likelihood of Timothy Ostberg committing new offenses because:
- **Records indicate that he has a history of drug and alcohol abuse and was under the influence of drugs and alcohol during the time of the offense. He participated in some treatment in 2014 and did not follow through on the recommendations of continued treatment.**
 - **Though, not convicted of a sexual offense, the record and his disclosures at the time, indicate the offense included violent sexual behavior. He has refused to address the sexual component of his offense or discuss it further since his conviction.**
 - **He has not participated in a psychological evaluation in over 10 years and evaluators have not been able to provide the ISRB with accurate estimations of risk of criminal recidivism, potential for future violent behavior, capacity to function in a less-restrictive setting or offering a psychologically informed opinion about what, if any, supervision conditions might mitigate his risk of recidivism.**
 - **He has not participated in a ISRB hearing in approximately 25 years until today. The Board has been unable to make a determination of his rehabilitation and fitness for release.**
7. Based on the requirements of RCW 9.95.009(3) and RCW 9.95.100 and after weighing all of the totality of the evidence, including the community custody conditions and any favorable evidence noted above by the Board, the Board finds that **Mr. Ostberg is not paroleable and adds 36 months to his minimum term. During the hearing, Mr. Ostberg indicated he was willing to participate in a psychological evaluation and the new minimum term was set to provide enough time for a psychological evaluation to be completed.**

This was a deferred decision following a full Board discussion, using a structured decision-making framework that takes into consideration; the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors based on the requirements of RCW 9.95.100.

VIII. RECOMMENDATIONS

- **Participate in a psychological evaluation prior to the next hearing.**
- **Be screened by the SOTAP Program for eligibility.**
- **Participate in any CBT programming that is designed to reduce the risk of reoffense.**
- **He should also be assessed for substance abuse treatment and follow any recommendations.**

CM: hd

9/19/2024

cc: Facility: AHCC
Timothy Ostberg, Incarcerated Individual
File



TO: Full Board

FROM: **CM** (hd)

RE: OSTBERG, Timothy DOC # 265243

Panel recommends: **Not Parolable. Add 36 months to Minimum Term.**

Next action: Schedule a .100 Hearing approximately 120 days prior to PERD. Updated psychological evaluation before the next hearing.

Agree	Disagree
Jeff Patnode, 9.23.2024 Elyse Balmert, 9.23.2024 Jill Getty, 9.23.2024 Corey McNally, 9.23.2024 Kecia Rongen, 9.23.2024	