

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Monday, July 15, 2013

Meeting called to order at 1:05 p.m.

Roll Call: Commissioners Anderson, Ferguson, Fritz, Garner, Labahn, Montes, Peck, Roberts, Singh, Turner, and Zarrinnam are present.

CONSENT CALENDAR

Comments and clarification regarding meeting minutes of June 18, 2013: Following public comment, the minutes were amended as described below.

Lifer Hearing Backlog Report: No comments.

Public comment on Consent Calendar:

VANESSA NELSON-SLOANE, Life Support Alliance, requested that the June 2013 minutes be amended to reflect that her comments were made on behalf of Life Support Alliance.

Executive Officer JENNIFER SHAFFER indicated that the minutes would be amended.

Commissioner ROBERTS moved to approve the consent calendar as amended and was seconded by Commissioner TURNER. The motion carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer JENNIFER SHAFFER

SHAFFER announced the retirement of Commissioner FERGUSON. He will serve until the end of August.

SHAFFER announced that Commissioners ANDERSON, FRITZ, LABAHN, and ZARRINNAM have been reappointed by Governor Brown.

SHAFFER stated that board regulations are now available online. Administrative directives approved by the board are also available online.

SHAFFER reported that she recently testified in federal court in the trial of *Gilman v. Brown*. Her testimony included a description of the Board's sua sponte review process pursuant to Penal Code section 3041.5(b)(4). A handout of select Penal Code provisions was made available. Additionally, SHAFFER stated the Board has revised the Petition to Advance form. This new form is available and is being distributed, but Petitions to Advance submitted on the old form will continue to be accepted by the Board.

SHAFFER explained that every hearing resulting in a three-year denial will be reviewed approximately one year later with specific screening criteria. Comments from victims and victims' next-of-kin will be accepted within a specified timeframe and the Board will reach out to stakeholders to refine the process. SHAFFER asked for a full briefing by the Chief Counsel at next month's Executive Board meeting on this process.

SHAFFER reported that on July 3, 2013, Federal Judge Karlton dismissed the *Valdivia* class action lawsuit as being moot as a result of the state's recent realignment of the criminal justice system. SHAFFER believes that the court's decision to dismiss *Valdivia* would not have been possible without the hard work of the Board's parole revocation staff throughout the state.

SHAFFER reported that as of July 1, 2013, the state courts will be handling all parole revocation proceedings.

SHAFFER announced that Commissioners MONTES and SINGH will attend the National Judicial College next month.

SHAFFER introduced Attorneys Tiffany Shultz and Heather McCray to the Board.

Report from Chief Counsel HOWARD MOSELEY

MOSELEY noted that the Transcript Analysis Program (TAP) was revised. Specifically, TAP reviews will occur quarterly during a commissioner's first year and twice a year thereafter. TAP reviews will include a review of grants, denials, and relevant writs. Additionally, the reviewing attorney will attend one hearing before a TAP review. The changes will become effective in August 2013.

DEL HAMMADES from IT provided an update on changes to the Lifer Scheduling & Tracking System (LSTS) and the new functionality on the sua sponte process.

SHAFFER clarified that "sua sponte process" refers to the process she testified to in *Gilman v. Brown*.

HAMMADES noted that the facts, decision, and recommendation section on the screen provides the following: (1) PTA tab with an option to either approve or deny; (2) Early release and medical parole with the ability to move the NLT date 6 months; and (3) a tracking mechanism. Early release and PTA will move the NLT. More information has been added to the 3000.1 section. In the tabs area, the parole violator inmate tracking system (PVITS) is read-only.

SHAFFER clarified that PIVTS will give access to the alleged parole violation and information for the underlying charges.

HAMMADES indicated that additional improvements are in process. The sentence calculation area will be changed to reflect the action date. The aggravating and mitigating section will display the months for easier calculation. Also, reports will include the newly opened California Health Care Facility. Lastly, prior difficulties with cutting and pasting text into LSTS have been fixed.

SHAFFER clarified that with sua sponte advancements, commissioners will receive individual assistance as they begin reviewing those cases.

Presentation given by the Office of Offender Services, by Colleen Curtin, Chief, Community and Reentry Services, and Chenita Bradley, Parole Agent II

CURTIN and BRADLEY presented a PowerPoint providing an overview of the Division of Rehabilitative Services. The presentation focused on the Office of Offender Services and covered topics such as the division's goals, in-prison programs, community and reentry services, and determining offenders' criminogenic needs.

Commissioner PECK asked if they have transitional housing.

CURTIN indicated yes and that they contract with outside sources.

Commissioner PECK asked for an example of housing programs.

CURTIN stated that Center Point and Options for Recovery are two of their service providers.

Commissioner TURNER asked if parolees have to be referred by their agent or if commissioners can make a referral.

CURTIN indicated commissioners may make the referral, but must work in coordination with DAPO.

Commissioner MONTES asked if the service providers are new.

CURTIN stated that none of the service providers are new, and several are coming up on their 4th and 5th year. There are no programs specifically for lifers, but lifers enter these transitional housing programs daily. Additionally, some counties have overlapping programs. Curtin indicated that the Office of Offender Services will look into programming for lifers, sex offenders, and the mentally ill.

SHAFFER noted that inmates sometimes do not have resources to pay for transitional housing. She asked whether the costs will be covered if an inmate is ordered to transitional housing.

CURTIN indicated yes, but it would need to be supported by a contract. She stated the most up-to-date program directory and contact information is available on their website.

BRADLEY stated that they have structured residential programs funded by CDCR.

OPEN COMMENTS

BPH Commissioners - Agenda Items for Future Meetings: None.

Public Comments

VANESSA NELSON-SLOANE of Life Support Alliance addressed inmate hunger strikes and requested that commissioners give special consideration to the circumstances of disciplinary chronos resulting from hunger strikes and work stoppages.

BRIAN WANERMAN, attorney, requested clarification on the procedure for inmate remorse letters. Specifically, he expressed concern that CDCR's Office of Victim and Survivor Rights and Services was no longer accepting these letters.

The meeting recessed at 1:52 p.m., until Tuesday, July 16, 2013.

**BOARD OF PAROLE HEARINGS
Executive Board Meeting
Tuesday, July 16, 2013**

Meeting reconvened from Monday, July 15, 2013, at 10:02 a.m.

Roll call: Commissioners Anderson, Ferguson, Fritz, Garner, Labahn, Montes, Peck, Roberts, Singh, Turner, and Zarrinnam are present.

ANDERSON announced that Administrative Directive 2013-05, Pre-Hearing Review of Requests for Waivers, Stipulations, and Postponements will not be presented today.

EN BANC REFERRALS

Recall and Referral for Resentencing, pursuant to Penal Code section 1170(e)

A. STUART, DAVID AF-5942

No speakers.

B. LAMBIE, WILLIAM P-83073

LOUIS LAMBIE, inmate's son, and ANITA LAMBIE, inmate's ex-wife, supported recall and referral for resentencing.

Referral by Chief Counsel, pursuant to California Code of Regulations, title 15, section 2042

C. DENHAM, JOE C-80297

JILL KLINGE, Alameda County District Attorney's Office, questioned the decision to send this matter to the Board and questioned the Legal Division's role in referring these

matters to the board. She indicated that in this case, the commissioner stated why the inmate lacked insight and the decision was based on some evidence.

D. LANG, DAVID E-93555

ALEXIS DE LA GARZA, Los Angeles District Attorney's Office, supported reconsideration of the parole grant and suggested obtaining more medical information.

E. CHHUON, JAMES V-44036

No speakers.

Referral by the Governor for review of parole decision by the full board, pursuant to Penal Code section 3041.1 and California Code of Regulations, title 15, section 2044

F. ELIZALDE, ALFRED B-58928

No speakers.

G. JUNG, DALE K-64445

MICHAEL BECKMAN, inmate's attorney, supported parole and stated that the panel considered everything the Governor spoke of in his referral letter.

DISCUSSION ITEMS

Administrative Directive 2013-05, Pre-Hearing Review of Requests for Waivers, Stipulations, and Postponements was not presented after being referred back to the Legal Division for amendments by the Best Practices Advisory Committee.

OPEN COMMENTS

BPH Commissioners - Agenda Items for Future Meetings: None.

Public Comments

ROBIN SHAKELY, Sacramento County District Attorney's Office, expressed concern over the new review process of every three-year denial and the trauma it will cause victims. She suggested review at the time of the hearing may be a better process.

STEVE KATZ, Los Angeles District Attorney's Office, expressed concern over the new review process. He voiced concern that the exception of an early hearing will become the rule as a result of the process and that the process is inconsistent with the spirit of *Vicks* and the California Constitution. He believes it should be individualized and isolated cases that are reviewed.

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, commented that the Board is overreaching with the new review process and it is inconsistent with *Vicks*. She further

commented that it makes a two-member panel decision subject to review by one person and that commissioners are in the best position to make the decision for review.

CHRISTINE WARD, executive director of Crime Victims Alliance, expressed her opposition to the new process. She stated that the Board is responsible for public safety and to make sure that inmates do not come out of prison too soon. She stated her belief that the new procedure will traumatize victims further and circumvents victims' rights. She further voiced frustration over being excluded from the decision process.

JILL KLINGE, Alameda County District Attorney's Office, expressed understanding regarding the Board's *Gilman* litigation, but stated that previously there was a three-year review of five-year denials and she believes the court is more concerned with lengthy denials. She raised concerns over the implementation of the new review process and the potential for inconsistent results. Additionally, she expressed a desire for stakeholder input in the implementation of the new review process.

TODD RIEBE, Amador County District Attorney and California District Attorneys Association, expressed concern over the new review process. He questioned the motivation behind the new review process and the connection with the *Gilman* suit. He stated that many factors go into the decision to grant parole and one year is insufficient to demonstrate new information. He asked what the new rules are and highlighted the increased cost to the counties and victims.

Meeting adjourned at 10:38 a.m.

Back on the record at 10:39 a.m. at the request of JENNIFER SHAFFER.

SHAFFER discussed the end of parole revocations at the board and the redirection of many Deputy Commissioners from adjudicating parole revocation hearings to adjudicating parole suitability hearing. She introduced Associate Chief Deputy Commissioners Shannon Hogg, Richard Jallins, William Crisologo, Michael Gunning, and Dan Moeller, and thanked everyone involved for their hard work and leadership during the past year under extraordinarily difficult conditions.

SHAFFER also introduced Rhonda Skipper-Dotta, Chief of the Board's hearing operations and thanked her for her leadership and hard work bringing down the Board's parole revocation hearing process statewide. She then noted that Skipper-Dotta will now be in charge of the lifer hearings.

Meeting adjourned at 10:41 a.m.

Board of Parole Hearings
Scheduled and Backlog Hearings Report
Penal Code section 3041(d)
August, 2013

