

BOARD OF PAROLE HEARINGS
Executive Board Meeting Minutes
Monday, August 19, 2013

Meeting called to order at 1:08 p.m.

Roll Call: Commissioners Anderson, Ferguson, Fritz, Garner, Labahn, Peck, Roberts, Turner, and Zarrinnam were present. Commissioners Montes and Singh were not present.

CONSENT CALENDAR

Comments and clarification regarding meeting minutes of July 15 and 16, 2013:

No comments.

Lifer Hearing Backlog Report: No comments.

Public comment on the Consent Calendar: No comments.

Commissioner TURNER made a motion to approve the consent calendar. The motion was seconded by Commissioner ROBERTS. The motion carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer JENNIFER SHAFFER

SHAFFER stated that the Board is still working on the attorney appointment process.

SHAFFER stated that the dates for the Inmate Counsel Training are October 16, 2013, for Northern California and October 18, 2013, for Southern California. The training will include required training on the Americans with Disabilities Act and basic parole suitability hearing orientation. It will be a full day of training and will be mandatory for attorneys that represent indigent inmates at parole suitability hearings.

SHAFFER also noted that Commissioners MONTES and SINGH were not present because they were attending a two-week training course at the National Judicial College.

SHAFFER recognized Commissioner FERGUSON for his work as a commissioner. She noted that since 2010 he has presided over 915 parole suitability hearings. She thanked him for his service and wished him well in his retirement.

Commissioner FERGUSON spoke indicating that it has been an honor and a privilege to serve as commissioner with the Board of Parole Hearings. He stated that when he became a commissioner he thought it would only be for one term and he did not anticipate the support he would receive, which made him want to stay longer. He said that commissioners work long

hours and he is impressed by their service. He thanked the executive staff and everyone in attendance.

Report from Chief Counsel HOWARD MOSELEY

MOSELEY reported on the administrative review that will be done on all three-year denials, and explained relevant portions of the *In re Vicks* decision by the California Supreme Court. He noted that safety valves are in place to ensure that longer denial terms required by Marsy's Law can be reviewed, one of those being the process by which an inmate may petition to advance his or her next suitability hearing date (Petition to Advance or "PTA" process). A handout with a flow chart and proposed changes was explained and made available. It was reported that victims and victim's next-of-kin will no longer be notified prior to an initial review of a PTA, however, if an advanced hearing is initially indicated, they will be notified and provided an opportunity to provide input before a decision is rendered.

MOSELEY indicated that the second safety valve is an internal process the board has adopted. It is not initiated by the inmate. It is a process by which the board will administratively review all 3-year denials one-year after the hearing. An analyst will screen cases using a set of criteria and submit a recommendation to an Associate Chief Deputy Commissioner, who will determine if the case should receive a full review on the merits. If approved for a full review, a commissioner or deputy commissioner will review the case and determine if the inmate's next suitability hearing should be advanced.

Commissioner ZARRINNAM asked if there was a timeframe for the administrative review.

MOSELEY indicated that the administrative review will be as timely as possible. If a hearing is advanced, the new hearing date is expected to occur approximately 18 months after the inmate's last hearing, which would be six months after the review.

SHAFFER indicated that if there were no registered victims or victim's next-of-kin to notify, the administrative review process should only take two weeks. She also indicated that they have met with many people to discuss the process. She noted that no letters will be sent to victims and victim's next-of-kin until the board has met with victim advocates to receive their input.

SHAFFER indicated that the administrative review process will be closely monitored and changed if warranted, and asked for everyone's patience. The first victim and victim's next-of-kin letters are anticipated to be mailed in September.

Commissioner ANDERSON asked if the inmate will be notified.

MOSELEY stated that inmate's whose hearings are advanced will receive timely notice of their new hearing date.

Commissioner PECK asked what would happen if the inmate does not want his hearing date advanced.

MOSELEY stated that it will probably be broadcast fairly quickly through the inmate population and we do not anticipate many inmates will not want an earlier hearing.

MOSELEY asked the commissioners for suggestions for additional training on any topic. No topics were suggested.

Senior Attorney KATIE RILEY presented the draft Administrative Directives regarding Waivers, Stipulations, and Postponements (2013-03A, 2013-03B and 2013-03C).

MOSELEY stated that a directive was presented to the Board at the July meeting and based on comments and suggestions at that meeting, the Legal Division further reviewed and amended the directive by expanding it and separating it into three directives.

MOSELEY stated that the proposed Administrative Directive will supersede Administrative Directive 2013-03. It was renumbered for purposes of clarification.

RILEY announced that the Board name has been officially changed in the Board's regulations from "Board of Prison Terms" to "Board of Parole Hearings."

Report from Chief Psychologist, DR. CLIFF KUSAJ

SHAFFER announced that KUSAJ will present updates to two psychologists' tools, including the HCR-20. The commissioners will be asked to vote on the acceptance of the use of the new HCR-20 the following day and if approved, its use will begin on January 1, 2014.

KUSAJ indicated that the revision to the HCR-20 is quite comprehensive and is the 3rd revision of the HCR-20. The new tool includes a complete set of professional guidelines that takes a holistic approach and reduces redundancy. It took five years to revise and improvements include greater structure, guidance, and enhanced clarity. He stated his belief that the new version is a good fit for the kind of work the Board does.

KUSAJ stated that the Forensic Assessment Division (FAD) will be trained in October by one of the authors of the revisions to the HCR-20.

KUSAJ further reported that the DSM-IV was revised in May 2013, to the DSM-V. The changes are widespread and all FAD staff will be trained in September.

It was recommended that the new tools be adopted.

OPEN COMMENTS

BPH Commissioners - Agenda Items for Future Meetings: None.

Public Comments

JILL KLINGE of the Alameda County District Attorney’s Office stated that district attorneys are still not in agreement with the administrative review process. She stated that victims and victim’s next-of-kin should be told cases will be reviewed after one year whenever an inmate receives a three-year denial.

KLINGE commented that she had spoken with the a representative of the San Diego District Attorney’s Office who stated that nothing compels the board to conduct a one-year review of a three-year denial. The representative believes it is against Marsy’s Law and only prolongs victim and victim next-of-kin suffering. They believe the review should be used sparingly.

KLINGE thanked Commissioner FERGUSON for his work.

VANESSA NELSON-SLOANE of Life Support Alliance stated her organization will tell inmates about the administrative review process. She commented that at the board’s meeting last month there was a lot of opposition to the administrative review process from district attorneys, but that Life Support Alliance supports the administrative review process.

The meeting recessed at 2:00 p.m., until Tuesday, August 20, 2013.

**BOARD OF PAROLE HEARINGS
Executive Board Meeting Minutes
Tuesday, August 20, 2013**

Meeting reconvened from Monday, August 19, 2013, at 10:08 a.m.

Roll call: Commissioners Anderson, Ferguson, Fritz, Garner, Labahn, Peck, Roberts, Turner, and Zarrinam are present. Commissioners Montes and Singh were not present.

EN BANC REFERRALS

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

A. DAVIS, MARVIN H-88451

REMOVED FROM AGENDA

B. MONDARES, STEVEN E-50259

THOMAS QUINN, brother of the victim. He stated that the inmate showed no compassion for his sister when he killed her. He opposed the inmate’s release.

JOHN QUINN, brother of the victim. He stated that the inmate never apologized until his last hearing. He does not believe the inmate has earned a compassion release. He opposed the inmate's release.

KACEY SUTTON, district attorney, commented that the inmate has stated he was not a criminal because he only committed one crime, the life crime. She believes the inmate has never taken accountability for his crime and remains a substantial danger to society.

Referral by the Governor for review of parole decision by the full board.

C. SOTO, CESAR D-40815

KERRY SOTO, family member, stated the inmate has a big support system and has a job lined up. His family will support the inmate even if he is paroled to Mexico.

ANDREW SOTO, son of the inmate, stated support of his biological father. He believes the inmate understands what he has done and believes he is remorseful.

GRACEILA SOTO, sister of the inmate, spoke of the support that the family has for the inmate, who has two job offers in Mexico. If he is paroled to Mexico, the family has made arrangements to have the inmate's mother stay 3-6 months in Mexico with him.

MARGARITA SOTO, sister of the inmate, supported his release. She stated that the inmate has a huge support system.

CHARLES CARBONE, inmate's attorney, stated that the decision should be easy as the Governor was only concerned about parole plans in Mexico which have now been addressed. He asked that the inmate be released.

STEVE KATZ, Los Angeles County District Attorney's Office, shared the Governor's concern with regard to the practicality of the parole plans indicated at the most recent suitability hearing and stated it is not simply a technical error that can be cured by letters from family. The inmate only mentioned being released to family in California and never mentioned plans in Mexico. He requested another suitability hearing to discuss these plans.

Referral pursuant to Penal Code section 3041 to determine eligibility for parole following a tie vote.

D. KILGORE, ADRIANNE W-26663

No discussion.

DISCUSSION ITEM

Adoption of the Revised HCR-20: Assessing Risk for Violence, Version 3 (HCR-20-V3).

KUSAJ reiterated the improvements to the HCR-20 and noted that it is being used all over the country and internationally.

Public Comments

VANESSA NELSON-SLOANE, Life Support Alliance, stated that the HCR-20 is a tool to be used for evaluation for treatment and questioned whether it was appropriate for use by the Board. She questioned if the treatment options indicated would be available for lifers and wanted to know if there was a user manual available and if everyone will be re-evaluated with the new tool. She stated that her organization will be at a symposium for parole agents on 9/24/13 concerning lifer parolees and she welcomed everyone to come.

A motion was made by Commissioner ZARRINNAM to adopt the revised HCR-20, Version 3 for use by the FAD. The motion was seconded by Commissioner LABAHN. The motion was unanimously passed.

OPEN COMMENTS

BPH Commissioners - Agenda Items for Future Meetings: None.

Public Comments

VANESSA NELSON-SLOANE, Life Support Alliance, commented on a recent report stating that most crime victims do not want eternal incarceration for their perpetrators, but instead prefer they receive treatment.

Meeting adjourned at 10:48 a.m.

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

