



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2014-03C

SUBJECT: TRANSCRIPTS OF AUDIO, VIDEO AND OTHER ELECTRONICALLY STORED STATEMENTS FILED WITH THE BOARD

INTRODUCTION

This Administrative Directive provides guidance on the handling of audio, video and other electronically stored statements filed with the Board of Parole Hearings (Board).

LEGAL AUTHORITY

Penal Code section 3043.2, subdivision (b), states, "Whenever an audio or video statement or a statement stored on a CD Rom, DVD, or other medium is filed with the board, a written transcript of the statement shall also be provided by the person filing the statement."

DIRECTIVE

When a person submits an audio or video statement to the Board, or any other electronically stored statement, he or she shall also provide a written transcript of the statement. It is not necessary that the written transcript be certified. The audio, video or other electronic statement may be viewed by the panel prior to the hearing or at the hearing, and shall be mailed to the Board of Parole Hearings, Decision Review Unit, after the hearing for filing under the inmate's name and CDCR number. The written transcript of the statement shall be marked as an exhibit at the hearing and later added to the inmate's electronic central file pursuant to Administrative Directive 2014-03A.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the BPH Legal Division at (916) 324-7604.

APPROVED BY: _____

JENNIFER P. SHAFFER
Executive Officer, BPH

DATE: _____



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2014-05

SUBJECT: SCOPE OF VICTIM IMPACT STATEMENTS AT HEARINGS

INTRODUCTION

This Administrative Directive clarifies the scope of victim impact statements presented at a parole suitability hearing and how it differs depending on the person providing the statement and the method in which the statement is delivered.

LEGAL AUTHORITY

Under **Penal Code section 3043, subdivision (b)(1)**, the victim, next of kin, members of the victim's family, and two representatives "have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the prisoner and the case." The subdivision continues with a list of topics that may be covered, including but not limited to:

[T]he commitment crimes, determinate term commitment crimes for which the prisoner has been paroled, any other felony crimes or crimes against the person for which the prisoner has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the prisoner for parole.

Penal Code section 3043.2, subdivision (c) allows a prosecutor to represent "the views of the victim, his or her immediate family members, [and] next of kin."

DIRECTIVE

The panel shall only consider information given during victim impact statements at parole suitability hearings by the individuals listed below that are within the following parameters:

1. Any victim, victim next of kin, family member of the victim, or designated representative that makes an appearance at a parole suitability hearing may express his or her views concerning the prisoner and the case.
2. Any counsel appearing in lieu of a personal appearance by a victim, victim next of kin, family members of the victim, or designated representative, may express the views of his or her client concerning the prisoner or the case.
3. A prosecutor representing the victim, victim next of kin, or immediately family of the victim may express the views of the individual or individuals the prosecutor is representing.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the legal office at (916) 324-7604.

APPROVED BY: _____

JENNIFER P. SHAFFER
Executive Officer, BPH

DATE: _____

PROPOSED REGULATORY TEXT

Original proposed additions are indicated by underline and deletions are indicated by ~~strikethrough~~.

NEW proposed additions are indicated by double underline and NEW deletions are indicated by ~~double strikethrough~~.

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 15. CRIME PREVENTION AND CORRECTIONS
DIVISION 2. BOARD OF PAROLE HEARINGS
CHAPTER 3. PAROLE RELEASE
ARTICLE 4. PAROLE CONSIDERATION PROCEDURES for LIFE PRISONERS and
NONLIFE 1168 PRISONERS

15 CCR § 2275 to read as follows:

§ 2275. ~~Implementation of Penal Code Section 3000.1. Penal Code 3000.1 Proceedings-Parole Reconsideration Hearings.~~

(a) General. ~~As required by Penal Code section 3000.1, when parole is revoked for any prisoner sentenced under Penal Code section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the prisoner shall be given a hearing as provided in Penal Code sections 3041.5 and 3041.7 within 12 months of the date of any revocation of parole to consider the release of the inmate on parole. Penal Code section 3000.08(h) provides that, following a lawful determination that the person has committed a violation of law or violated his or her conditions of parole, persons on parole for specified crimes shall be remanded to the custody of the Department of Corrections and Rehabilitation and remanded to the jurisdiction of the Board of the Parole Hearings for future parole reconsideration. Parolees who are subject to remand upon a lawful determination are specified as follows: (i) parolees convicted of crimes listed in Penal Code section 3000(b)(4) where the crime was committed on or after September 9, 2010; (ii) parolees convicted of crimes listed in Penal Code section 3000.1(a)(1) where the crime was committed on or after January 1, 1983; and (iii) parolees convicted of crimes listed in Penal Code section 3000.1(a)(2) where the crime was committed on or after September 9, 2010. These hearings are collectively referred to as Penal Code section 3000.1 proceedings-Parole Reconsideration hearings.~~

(b) Panel. ~~This hearing shall be conducted by a two person panel comprised of one commissioner and one deputy commissioner. Lawful Determination. Parole violation charges are adjudicated by the court in accordance with Penal Code section 1203.2, or by another lawful authority for multijurisdiction parolees. Upon the lawful determination that a parolee has committed a violation of law or violated a condition of parole, the matter is remanded to the Board of Parole Hearings for a Penal Code section 3000.1 Parole Reconsideration initial hearing.~~

(c) Disposition. ~~At this hearing, the panel shall release the prisoner within one year of the date of the revocation, unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration, or unless there is a new prison commitment following a conviction. If the panel concludes that a~~

more lengthy period of incarceration is warranted, then notwithstanding the provisions of paragraph (2) of subdivision (b) of section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is otherwise ineligible for parole release. ~~Penal Code section 3000.1 Parole Reconsideration initial hearings. A Penal Code section 3000.1 Parole Reconsideration initial hearing shall be held by the Board of Parole Hearings on the next available calendar, but no later than 12 months following a lawful determination that a parolee has committed a violation of law or violation of condition of parole. At a Penal Code section 3000.1 Parole Reconsideration initial hearing, the Board shall consider the violation of law or violation of condition of parole in the context of the parolee's history and all relevant suitability factors of California Code of Regulations, title 15, section 2402. The Board shall not retry the evidentiary findings of the court or other lawful authority. The Board and shall grant parole unless it determines that the circumstances and gravity of the violation of law or violation of condition of parole, in the context of the parolee's history and all relevant suitability factors, are such that consideration of the public safety requires a more lengthy period of incarceration.~~

~~(d) Penal Code section 3000.1 Parole Reconsideration annual parole consideration hearings. Within one year of a Penal Code section 3000.1 Parole Reconsideration initial hearing, parolees who do not have receive a parole grant of parole and who are not otherwise ineligible for release a Parole Reconsideration hearing shall receive a Penal Code section 3000.1 Parole Reconsideration annual parole consideration hearing. At a Penal Code section 3000.1 Parole Reconsideration annual parole consideration hearing, the Board shall grant parole in accordance with Penal Code section 3041 and California Code of Regulations, title 15, sections 2281 and 2402 of these regulations, as applicable. A parolee who does not have has not received a parole grant of parole and who is not otherwise ineligible for release shall continue to receive Penal Code section 3000.1 Parole Reconsideration annual parole consideration hearings each year until he or she receives a parole the board grants parole.~~

~~(1e) Ineligible for Release a Parole Reconsideration Hearing. For purposes of Penal Code section 3000.1 proceedings this section, a parolee is ineligible for release a Parole Reconsideration hearing if the parolee is serving a separate indeterminate term, or until the parolee reaches the third one year prior to his or her earliest possible release date (as calculated by the department) while serving a separate determinate term, or the parolee is incarcerated under other similar circumstances.~~

~~(2) Earliest Possible Release Date. The earliest possible release date is calculated by the California Department of Corrections and Rehabilitation. Using the inmate's maximum release date, it is a calculation of the earliest date the inmate could be released, accounting for all of the credits earned and lost by the inmate, and including a projection of the inmate continuing to earn credits until released.~~

~~(ef) Parole Grant Ineligible for Release. A parole grant at a Penal Code section 3000.1 proceeding is a finding by the Board the parolee is suitable for release. Despite a parole grant of parole at a Parole Reconsideration hearing, the parolee may continue to be incarcerated if serving a separate sentence or if subject to the jurisdiction of another authority.~~

(fg) Notice. Prior to any ~~Penal Code section 3000.1 proceeding~~ Parole Reconsideration hearing, notices shall be sent pursuant to Penal Code sections 3041.7 and 3043 to parties related to the life crime, or related to other crimes for which the parolee has been convicted as defined in Penal Code section 3043(a). No notices are required pursuant to Penal Code section 3042.

(gh) Hearing Rights. At ~~Penal Code section 3000.1 proceedings~~ Parole Reconsideration hearings, the parolee shall be provided all hearing rights in accordance with Penal Code section 3041.5, with the exception of subdivisions (b)(3) and (d), and shall be provided all hearing rights in accordance with Penal Code section 3041.7, and ~~California Code of Regulations, title 15, sections 2245 through 2256, or section 2367~~ for multijurisdiction parolees, of these regulations, as ~~relevant~~ applicable.

(hi) Hearing Panel. ~~Penal Code section 3000.1 proceedings~~ Parole Reconsideration hearings shall be heard by a two- or three-person panel composed of ~~two or more~~ commissioners or deputy commissioners, of which no more than one may be a deputy commissioner. En banc referrals shall be conducted in accordance with Penal Code section 3041.

(ij) Review of Decision. Proposed decisions at ~~Penal Code section 3000.1 proceedings~~ Parole Reconsideration hearings are subject to decision review by the Chief Counsel pursuant to ~~California Code of Regulations, title 15, subdivision (h) of section 2041(h)~~ of these regulations or by the full board en banc pursuant to section 2044 of these regulations. Decisions are subject to the Governor's review pursuant to Penal Code sections 3041.1 ~~and~~ or 3041.2, as applicable.

(jk) Parole Discharge. A lawful determination that a parolee has committed a violation of law or violation of condition of parole shall be considered an interruption in parole for purposes of Penal Code sections 3000(b)(4), 3000.1(b), and 3001.

Note: Authority cited: Section 12838.4, Government Code; and Sections 3052 and 5076.2, Penal Code. Reference: Sections 1203.2, 3000(b)(4), 3000.08(h), 3000.08(j), 3000.1, 3001, 3041, 3041.1, 3041.2, 3041.7, and 3043, Penal Code; and Sections 2041(h) and 2402, California Code of Regulations, Title 15.