

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Monday, December 22, 2014

Meeting Called to Order at 2:05 p.m.

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

CONSENT CALENDAR

Commissioner ZARRINNAM moved to approve the consent calendar. Commissioner ROBERTS seconded the motion, which carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer

SHAFFER reported that the Director of the Division of Adult Institutions has issued a memorandum enabling inmate counsel and prosecutors to view central files at any institution, regardless of where the inmate is housed. A copy of the memorandum was distributed.

SHAFFER stated that on December 1, 2014, the State of California submitted a report to the Three-Judge Panel, setting out the proposed process for identifying non-violent, non-sex registrant inmates for early release. Inmates must serve at least half of their total sentence. Inmates will be reviewed for eligibility at their annual classification committee. The committee will refer to the board eligible inmates who have already served 50% of their total sentence or will have served 50% of their sentence within 12 months of the committee.

An inmate will not be referred to the board: if they are serving a Security Housing Unit (SHU) term, or have served a SHU term within the five years before the meeting; if they have been convicted of a serious disciplinary offense within the last five years; if they have been placed in work group C in the past year; if they have received two or more serious rules violations reports in the past year; if, within the past year, they have been found guilty of a drugs violation or have refused a urinalysis, or; if they have been found guilty of a violation that has a nexus with a security threat group. Inmates have the right to review their central file before the committee meeting. If their case is referred to the board, they will be given information on how to submit a statement for the board's consideration.

Within five days of receiving a referral, the board will send notification to registered victims and the district attorney's office, inviting their input. A deputy commissioner will conduct an administrative review of the inmate's central file. The decision to order the inmate's release will be based on whether or not the inmate poses a current unreasonable risk to public safety. Risk assessments will not administered by the board for these inmates. The board's decision will be communicated in writing to registered victims, the district attorney's office, and the inmate. A detailed memorandum governing these procedures will be issued by the end of this week.

SHAFFER stated that the board has scheduled all youth offender cases before the deadline of July 1, 2015, as required by Senate Bill 260. As of November 30, 2014, there have been 394 youth offender hearings scheduled. There were 112 parole grants and 156 denials, of which 20 were stipulations to unsuitability. There were two split decisions that have now been resolved. There were 114 waivers, postponements, continuances or cancellations.

As of December 10, 2014, there have been 21 expanded medical parole hearings. Since the order of the Three-Judge Panel, there have been 388 elder parole hearings. The hearings resulted in 115 grants, 271 denials (including 26 stipulations), and two split decisions. An additional 126 scheduled hearings resulted in a waiver, postponement, continuance or cancellation.

In view of the recent adverse weather, SHAFFER clarified the board's policy regarding postponing hearings because of bad weather. She stated that the board will not postpone hearings in advance. The effects of bad weather are impossible to predict and postponing cases in advance would have a significant impact on the board's hearing calendar. SHAFFER emphasized that no cases were postponed in advance because of the storm. Panels were advised to exercise their discretion to postpone on a case-by-case basis.

The next quarterly stakeholders' conference call will take place on Monday, January 12, 2015 at 1:00 p.m. A meeting notice will be sent to all who have expressed an interest in participating. SHAFFER invited any other interested persons to contact the board. The conference calls are operator-assisted and provide a significant amount of information. At the end of the call, participants may ask questions.

Report from Chief Counsel, Howard Moseley

No report.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL stated that the Executive Officer and the Director of the Division of Adult Institutions have issued a memorandum on December 4, 2014, addressing the use of computers by deputy district attorneys and inmate counsel. From January 5, 2015, they may bring laptops, tablets and I-pads to the hearing. The devices may not be used to take photographs or make audio recordings. Inmates must not be allowed access to the devices. Failure to comply with these procedures will result in removal from the hearing room and the institution. Future access to institutions might also be denied. The board has received over 130 signed agreements, which will be retained. Parties were informed that they must sign an agreement each time they attend a hearing and the agreement will be left at the gate of the institution.

The board continues to work on securing state-wide gate clearance for attorneys attending hearings. State-appointed attorneys now have clearance and it is hoped the same will be arranged for deputy district attorneys and privately-retained counsel by February, 2015.

Commissioner ZARRINAM asked whether attorneys may use their computers in interviews with inmates.

SHAFFER stated that they may not. Interviews are subject to attorney-client privilege and may not be monitored. This raises security concerns. Attorneys should print out relevant pages from the inmate's central file and take them to the interview.

Presentation on WatchDox File Tracking by Tara Doetsch, Staff Services Manager

DOETSCH gave an update on Watchdox. The watermarks previously inserted on the packets have been removed, so it is possible to annotate, highlight or delete pages. The e-mail notification to commissioners does not need a response and can be deleted. Watchdox training is scheduled for this afternoon.

SHAFFER reminded stakeholders that, from January, 2015, hearings will be completely electronic. There will be no paper documents and attorneys should download all required information before the hearing. There will be no internet access at the hearings. SHAFFER cautioned that, as a result of scheduling pressures, postponed hearings will take longer to place back on calendar.

DISCUSSION ITEMS

Proposed Administrative Directive 2014-03C, Transcripts of Audio, Video and Other Electronically Stored Statements Filed with the Board presented by Chief Counsel, Howard Moseley

MOSELEY stated that the proposed directive was considered at the November 2014 meeting. He invited the commissioners to vote on its adoption. The directive requires any party playing an audio or video recording at a hearing to provide a written transcript of the recording. The transcript will be retained and made a part of the inmate's file. The board will keep the electronic version.

Public Comment: None

Commissioner SINGH moved to adopt the directive. Commissioner TURNER seconded the motion, which carried unanimously.

Proposed Administrative Directive 2014-05, the Scope of Victim Impact Statements at Hearings, presented by Staff Attorney, Susie Booth

BOOTH stated that the proposed directive has been modified since it was considered at the November 2014 meeting. The legal authority section has been expanded and sets out a list of issues that a victim impact statement might address. The list is not intended to be exclusive. The directive clarifies the parameters of the information that victims, their representatives and the prosecutor may provide.

Public Comment: None

Commissioner ZARRINNAM moved to adopt the directive and was seconded by Commissioner RICHARDSON. The motion carried unanimously.

PUBLIC COMMENT

JILL KLINGE, Alameda County District Attorney's Office, welcomed the improved central file review process. She requested clarification of when the 30-day review period for non-violent second-strike inmates would start. She stated that many files are in storage, causing difficulties in meeting the deadline. KLINGE requested e-mail notification, to avoid unnecessary delay.

GAIL BROWN, Life Support Alliance, expressed concern that inmates are often woken very early on the day of their hearing and kept in small cages for many hours. They are often not given food, water or allowed access to a restroom. The stressful conditions impair inmates' ability to concentrate at the hearing. BROWN recommended that panels ask inmates about the conditions in which they have been held before the hearing.

VANESSA NELSON-SLOANE, Life Support Alliance, stated that requiring parolees to stay in transitional housing for an extensive period can be counter-productive. She regretted that parole agents often extend the stay unnecessarily. NELSON-SLOANE recommended that panels specify in their decision the maximum length of residence in a transitional facility.

Meeting recessed at 2:45. p.m. until Tuesday, December 23, 2014 at 10:00 a.m.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Tuesday, December 23, 2014

Meeting called to order at 10:04 a.m.

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

SHAFFER congratulated Senior Staff Attorney, Tiffany Shultz on her appointment as Assistant Chief Counsel.

REPORTS AND PRESENTATIONS

LSTS Enhancements, presented by LSTS Project Manager, Christine Buffleben

BUFFLEBEN stated that the enhancements will be rolled out on Saturday, December 27, 2014. The system has been renamed the Board's Information Tracking System (BITS), since the board's jurisdiction now extends beyond lifer inmates.

BUFFLEBEN gave a screen presentation of the changes to the system. She stated that information has been added about the non-violent second-striker and the administrative review processes. She described changes to the menu and inmate history. Spellcheck has been added. Existing shortcuts will still work, although the addresses will be updated in 2015.

SHAFFER thanked BUFFLEBEN and the information technology staff for their work in creating the new system upgrades. She highlighted the changes to the administrative review process, which has been a manual process to date. SHAFFER stated that the objective for 2015 is to further enhance the board's technology.

Amended Regulations Regarding Penal Code section 3000.1 Proceedings, presented by Senior Staff Attorney Heather McCray

McCRAY described the proposed amendments to Title 15, California Code of Regulations section 2275, as set out in the proposed regulatory text, attached to the meeting agenda. She stated that Penal Code section 3000.1 hearings will now be known as Parole Reconsideration hearings.

Public Comment: None

Commissioner ZARRINNAM moved to adopt the amended regulation package and was seconded by Commissioner TURNER. The motion carried unanimously.

EN BANC REFERRALS

Referral pursuant to Penal Code section 1170(e) to determine eligibility for recommendation to sentencing court for recall of sentence

A. COX, JIMMY AK-7968

No speakers.

B. SIMON, BOBBY D-49680

BRIAN POMERANTZ, inmate's attorney, supported a recommendation for recall of sentencing.

Referral by the Chief Counsel pursuant to California Code of Regulations, title 15, section 2042, to assure complete, accurate, consistent and uniform decisions and the furtherance of public safety

C. BASS, DANIEL J-03303

DENNIS CUSICK, inmate's attorney, accepted that there had been an error in the term calculation.

D. BOHANA, DONALD P-22798

No speakers.

E. LLAMAS, DONNIE D-36130

No speakers.

F. PALMER, RICKY C-15566

No speakers.

Referral to consider ordering a rescission hearing, pursuant to title 15, California Code of Regulations section 2044

G. BAILEY, THOMAS C-96278

No speakers.

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

H. GULLETT, ROBERT H-45198

MICHELLE GARFINKEL, inmate's attorney, and KATHLEEN GONZALES, California Parole Hearing Support for Recovery, Rehabilitation and Change, supported the parole grant.

I. OLMOS, JAIME AF-4802

CHARLES CARBONE, inmate's attorney, AMY BREault, inmate's cousin, ELDA GOMEZ and MARTHA SOLIS , inmate's aunts and JAVIER OLMOS, inmate's father, supported the parole grant.

CATHERINE VOLKER, Ventura County District Attorney's Office, recommended ordering a rescission hearing.

Referral, pursuant to Penal Code section 3041 to either grant or deny parole when there is a tie vote

J. FLYNN, PATRICK J-25604

No speakers.

PUBLIC COMMENT

VANESSA NELSON SLOANE, Life Support Alliance, stated that January 2015 marks the organization's fifth anniversary. It has recently received a grant to fund the From the Date to the Gate program. It concentrates on developing the social skills of inmates who have been granted parole but not yet released. She invited board members and staff to attend a family seminar on February 28, 2015.

MERVIN BROOKINS, former life inmate, described his experiences on parole and thanked the board for the opportunity to contribute to the community.

Meeting adjourned at 11:04 a.m.

Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

January, 2015

