

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Tuesday February 17, 2015

Meeting Called to Order at 1:00 p.m.

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

CONSENT CALENDAR

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

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer

SHAFFER highlighted some of the figures released in the Board's *2014 Significant Events* publication, copies of which were distributed. The number of parole suitability hearings scheduled increased by more than 500, as compared with the 2013 total. Stipulations decreased, in part because the Board no longer accepts stipulations pre-hearing. The number of scheduled consultations (previously called "documentation hearings") increased by more than 300 in 2014.

The Board processed approximately 25,000 items of correspondence. In addition, the legal Division responded to over 900 letters. The Investigations Division prepared a considerable number of pre-parole investigations. The board produced 300 more comprehensive risk assessments in 2014.

In 2014, elder parole hearings, youth offender hearings, and expanded medical parole hearings were introduced. The Board also took responsibility for sending statutorily-required notices of all parole consideration hearings. Previously, these notices were sent from the institution where the hearing was scheduled. In the first three months, more than 5,600 notices were sent.

SHAFFER stated that the three-judge panel report will be filed with the court and published today. Through January, 2015, there have been 378 youth offender hearings. The Board has received 205 referrals of non-violent, second-strike (NVSS) offenders for parole consideration. The parole process for NVSS offenders began in January of this year. Based on the classification committee meetings scheduled for 2015, SHAFFER believed that there will be an increase in the number of monthly NVSS referrals until the later part of this year, when they are expected to decline slightly.

There were 26 expanded medical parole hearings in 2014. Another 6 hearings were postponed or cancelled. There were 549 elder parole hearings in 2014.

SHAFFER stated that she and Chief Counsel MOSELEY attended the California District Attorneys' Association conference in Long Beach, on January 26, 2015. They briefed prosecutors on elderly parole, youth offender hearings, and NVSS parole reviews.

SHAFFER stated that the Board is aware that NVSS notices requesting input from prosecutors do not currently contain the inmate's local case number. District attorneys' offices have experienced difficulty in identifying relevant case files. The Board's computer programmers are working to remedy the situation. SHAFFER apologized for the inconvenience and anticipated that the problem will be corrected by the end of March.

SHAFFER stated that she attended a Division of Adult Parole Operations lifer meeting on January 27, 2015 and there was a positive exchange of information.

Report from Chief Counsel, Howard Moseley

MOSELEY stated that the Legal Division has sent proposed regulations to the Office of Administrative Law (OAL) regarding parole reconsideration hearings, formerly known as Penal Code section 3000.1 hearings. The regulations will be finalized after 30 days. The regulation package on term calculations, as required under the *Butler* settlement agreement, will also be sent to OAL. There will then be a public comment period.

Draft regulations for Senate Bill 260 hearings were presented at the January 2015 executive board meeting. Modifications were made as a result of stakeholder feedback and MOSELEY distributed the revised version. The revision clarifies the identification of an inmate's controlling offense and addresses calculating the term when there is a tie vote. The revision also deals with inmates who are close to their earliest possible release date and is intended to avoid unnecessary hearings. Youth offenders who are found suitable for parole are released at the earlier of their minimum eligible parole date or youth parole eligibility date. MOSELEY stated that the proposed regulations will be considered at next month's meeting. He invited further feedback from stakeholders. MOSELEY stated that a copy of Board-related California Code of Regulations (CCR), Title 15 will be reissued after the regulations have been adopted.

MOSELEY gave an overview of the seven methods by which cases are referred to the full Board. He reviewed, firstly, referrals pursuant to Penal Code section 1170(e). The Board must be satisfied that the inmate is suffering from a terminal medical condition, with a life expectancy of six months or less. The Board must also be satisfied that the inmate does not pose a continuing threat to public safety. If the criteria are met, the case is referred to the sentencing court, to consider recalling the inmate's sentence at a full hearing. MOSELEY emphasized that the evidence that the Board considers is confidential. The Board sends all documents to the court, which has the discretion to release them.

The Chief Counsel may refer the second type of case, pursuant to CCR, Title 15 section 2042. Referrals are made following a review of proposed parole decisions. The purpose of a review is to assure complete, accurate consistent and uniform decisions and the furtherance of public safety. There is a brief description of the reason for the referral on the meeting agenda. The

Board attempts to balance transparency with the need to preserve the Legal Division's attorney/client relationship with the Board.

The third type of referral is pursuant to CCR, Title 15 section 2450. The full Board will consider ordering a rescission hearing, usually as a result of an inmate incurring a rules violation report or being subject to criminal proceedings. If a rescission hearing is ordered, an attorney is appointed to represent the inmate. The inmate and the attorney may view the central file and the non-confidential aspects of the rules violation report. The panel may hear evidence from witnesses at the hearing.

The Governor may refer a parole decision to the full Board, pursuant to Penal Code section 3041.1. The Governor's memorandum is distributed to the parties.

The fifth type of referral is to consider recommending a pardon by the Governor. The person seeking the pardon must first obtain a certificate of rehabilitation from the sentencing court.

The sixth type of referral is by a member of the panel that made a parole decision. The panel member may request the full Board reconsider the decision. The request must be made within 60 days of the hearing and the panel member is not required to give a reason for the request.

The final type of referral is pursuant to Penal Code section 3041 when there is a tie vote. The full Board must base its decision on the information that was before the panel. Unlike other types of referral, public comment is not permitted at the meeting.

SHAFFER emphasized that neither of the panel members is involved in the full Board's decision regarding a tie vote. MOSELEY added that the panel members recuse themselves and are not present in the room with the full Board when it discusses a case resulting from a tie vote.

MOSELEY stated that when a case is referred to the full Board, notices are sent to the district attorney's office, registered victims, the inmate and the inmate's counsel. With the exception of the inmate, who receives notice through the U.S. mail, notices are sent by e-mail. The notice states the reason for the referral and invites comment in person, by fax, or by e-mail.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL stated that the date of the inmate panel attorney orientation for Northern California has been changed to September 14, 2015. The venue remains Sacramento. The website will be updated with the new information and a copy of the training announcement will be sent to attorneys on the board's list.

The Board has addressed the issue of late transcripts and has caught up with the backlog. Transcripts are currently being sent out around 35 days from the hearing but it is anticipated that they will be sent out within 30 days by March 13, 2015.

CHRISTINE BUFFLEBEN, Board Information Technology System (BITS) project manager, gave an update on the system rollout that occurred on February 2, 2015. Enhancements have been made to the petition to advance (PTA), administrative review (AR) and non-violent, second striker (NVSS) processes. A decision review component was added as well as a further review component. The review on the merits decision screen was expanded from 1,000 to 4,000 characters. Suitability hearing start and end times are no longer preloaded from the scheduled hearing information, so that actual start and end times can be more easily entered. Spellcheck has been added to several text boxes. Changes have also been made to the international prisoner transfer screens and reports.

PUBLIC COMMENT

VANESSA NELSON-SLOANE, Life Support Alliance, welcomed the fact that inmate attorneys are able to bring their laptops to hearings. She regretted that attorneys are unable to bring laptops to client consultations. NELSON-SLOANE stated that there have been problems with attorneys being able to schedule consultations with their inmate clients. The attorney-client consultations are often conducted in unsatisfactory conditions. Attorneys are sometimes kept waiting a long time for their clients to be brought to the consultation. Attorneys are being charged as much as \$48 for electronic copies of their client's Central File documents. They are also being prevented from bringing rolling carts into institutions and face intrusive personal searches. NELSON-SLOANE stated that there is an unjustified difference in the treatment of inmate attorneys and district attorneys in the institutions.

Meeting recessed at 1:40 p.m.

ROBIN SHAKELY, Sacramento County District Attorney's Office, opposed a recommendation.

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.

F. DORAN, MELISSA W-92202

No speakers.

G. TOWLER, CHRISTOPHER D-75176

SONJA PRINT, law student, submitted that the Board should take into account the length of the inmate's incarceration and his positive institutional behavior. MICHAEL FARRELL inmate's friend, expressed his support for the inmate.

THOMAS BUANTELLLO, victims' nephew, and LYDIA RIOS, victims' sister, opposed the inmate's release on parole.

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

H. EDGE, ROBERT E-20889

Not considered.

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.

I. BERNAL, BILLY H-52478

No speakers.

J. MITCHELL, NORMAN E-43294

No speakers.

K. WATSON, XAVIER

J-14980

SABINA CROCETTE, inmate's attorney, submitted there are no grounds to order a rescission hearing.

PETER LYNCH, San Mateo County District Attorney's Office, opposed the inmate's release.

OPEN COMMENTS

AARON WEST, Santa Clara County District Attorney's Office, listed the difficulties in identifying NVSS inmates after receiving the Board's request for input. The difficulties impede their ability to respond effectively. WEST welcomed the opportunity to discuss the issue with Executive Officer SHAFFER and Chief Counsel MOSELEY.

SUSAN BURTON, New Way of Life, described the work of the organization. She introduced former life inmates NANNIE WILKERSON, TIFFANY JOHNSON, MARY LEE, HEDI SMITH, UGO MACHUCA and CREOCEIIZIO RAEED, who described their experiences on parole.

VANESSA NELSON-SLOANE, Life Support Alliance, invited stakeholders to attend an event on February 28, 2015, and outlined the agenda for the event.

CHRISTINE WARD, I-Can and Crime Victims' Action Alliance, read a letter from a victim who described the trauma of attending a parole suitability hearing.

Meeting adjourned at 11:44 a.m.

Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

March, 2015

