

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Monday, May 18, 2015

Meeting Called to Order at 1:20 p.m.

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

Commissioner Labahn stated that Commissioners Minor and Montes would be attending later. He confirmed that a majority of currently-appointed commissioners were present. He stated that Executive Officer, Jennifer SHAFFER is not present and Chief of Program Operations Sandra MACIEL would take her place at the meeting.

CONSENT CALENDAR

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

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer, presented by Chief of Program Operations, Sandra Maciel

MACIEL stated that SHAFFER and Commissioner ANDERSON are attending the Association of Paroling Authorities International Conference in Columbus, Ohio. Topics to be discussed at the conference include mentally ill offenders, Canada's parole board quality assurance in decision making framework and the latest research, developments, and special considerations for parole determination of individuals who entered the adult criminal justice system as youths. SHAFFER will give a report on the conference at the June, 2015 meeting.

The board's is continuing its outreach program and in May, 2015, MACIEL and SHAFFER visited California State Prison, Sacramento and California State Prison, Folsom. SHAFFER visited Mule Creek State Prison.

MACIEL provided a legislative update. Assembly Bill 487, which requires district attorney notification of specified parole proceedings, has been referred to the Committee on Public Safety. Assembly Bill 920 would authorize the victim or victim's next of kin to request review of all non-confidential information in the prisoner's central file and be provided a copy of the Board's hearing packet within 30 days prior to the hearing. The bill would also allow the victims to submit documents, including recommendations, regarding the inmate's parole suitability. The bill is in committee, the first hearing is set and it has been referred to the Appropriations Committee suspense file.

Senate Bill 224 would establish an elder parole program for prisoners with a re-entry plan and who are 50 years of age or older and have served 15 years of their sentence. The bill has been placed on the Appropriations Committee's suspense file. Senate Bill 261 would require the Board to conduct a youth offender parole hearing for offenders sentenced to state prison who committed specified crimes under the age of 23. It has also been placed on the Appropriations Committee's suspense file.

The board will be hosting its quarterly stakeholder's conference call on Monday, June 1, 2015. Stakeholders are invited to appear in person at the board's headquarters or call in, using the AT&T conference call operator. The agenda, along with the conference call contact information will be e-mailed soon.

Commissioner Minor attended the meeting at 1:27 p.m.

Report from Chief Counsel, Howard Moseley

MOSELEY referred to the case of *Young*, which had been the subject of public comment received by the board at a prior board meeting. He stated that the California Supreme Court has ordered the opinion de-published. The case involved a 2009 parole denial. The inmate filed a petition for writ of habeas corpus and the court ordered a rehearing. The board again denied parole and the matter was eventually heard by the California Court of Appeal. Pursuant to the appellate court's order, the state was ordered to immediately release the inmate. The board requested that the Supreme Court order the Court of Appeal's opinion de-published. The Supreme Court granted the request and the opinion may no longer be cited. The Supreme Court reaffirmed the case of *Prather* and emphasized that, in granting a writ of habeas corpus, a court should order a rehearing, rather than an inmate's immediate release. MOSELEY stated that the de-publication did not result in Mr. Young's return to prison.

Staff Attorney, SUSIE BOOTH gave a presentation on proposed Administrative Directive 2015-02, The Role of Victim Support Persons. MOSELEY invited feedback on the proposed directive.

MOSELEY summarized the proposed regulations for youth offender hearings. They have been revised, following feedback from stakeholders. Section 2441 lists the factors to which a panel must give great weight when making a parole suitability decision regarding a youth offender. Section 2443 clarifies the youth parole eligibility dates. Section 2444 (c) has been revised and states that the board will not schedule a hearing where a youth offender's earliest possible release date is less than five months after he or she completes the 15th year of incarceration. MOSELEY invited further feedback until July 1, 2015.

MOSELEY stated that the bench guide governing consultations considered at the May, 2015 meeting is currently scheduled to be published in June 2015.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL stated that the board is close to securing institutional gate clearances for district attorneys and private attorneys. All the information needed to process the clearance memorandum has been obtained and it is anticipated that clearance will be secured in June 2015.

Report from Chief Deputy of Field Operations, Rhonda Skipper-Dota

The report was presented by Associate Chief Deputy Commissioner DANIEL MOELLER. He stated that the board has employed several new deputy commissioners, one of whom started that day. Another two will start in Fresno on June 1, 2015. On June 8, 2015, a deputy commissioner will start in San Bernardino. We expect there will be an additional four positions established in the next budget cycle. There will be a week of training in Sacramento before the deputy commissioners start at their assigned field offices. The legal division will conduct in-depth training in July and it is expected that the training will be completed in mid-August.

Commissioner ROBERTS asked whether the deputy commissioners will attend the administrative law college.

MOELLER stated that we will probably offer the administrative law college courses in Sacramento again.

Meeting recessed at 2:20 p.m. and reconvened at 2:34 p.m.

PRESENTATIONS

Insight-out, Guiding Rage into Power, presented by Jacques Verduin, Director

VERDUIN described the work of the program, using a Power Point presentation and a video.

VERDUIN explained that program meets once a week for two hours. Inmates are also given homework. He also explained that inmates enter the program by seniority from a waiting list and that the program's external staff makes the decision as to which inmates are selected.

PUBLIC COMMENT

KEITH WATTLEY, Uncommon Law, stated that the notices for cases referred to the full board provide insufficient information about the reason for the referral. He stated that panels are not giving the required weight to the youth offender factors. The grant rate for youth offenders is significantly less than that for inmates who committed their offenses as adults.

Commissioner MONTES attended the meeting at 2:53 p.m.

VANESSA NELSON-SLOANE, Life Support Alliance, complemented VERDUIN on his presentation. She encouraged panels to state on the record that the inmate's parole plans are acceptable and to specify the length of time the parolee should attend a program. Parole agents often require parolees to attend different programs for an unnecessarily lengthy period. NELSON-SLOANE stated that imposing geographical limitations can cause difficulties for parolees. She also stated that rules violation reports are still being issued for inmates as a result of taking prescribed medication.

HARRIET SOLANO, Crime Victims United, supported proposed Administrative Directive 2015-02. She expressed concern about a recent hearing where the inmate's counsel had objected vociferously to the victim's counsel's delivering the impact statement. The panel refused to

allow the victim's counsel to do so. SOLANO emphasized that the State Constitution and the board's directives permit victims' counsel to deliver an impact statement. She stated that victims' counsel should also have access to the board packet.

Meeting recessed at 3:05 p.m. until Tuesday, May 19, 2015 at 10:00 a.m.

F. KINCHELOE, DALE C-30208

KEITH WATTLEY, inmate's attorney, submitted that the board should affirm the inmate's parole grant.

G. WILLIAMS, KINGSLEY D-96444

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. CHRUNIAK, CHARLES C-38223

MICHAEL SHANNON, inmate's attorney, supported the parole grant.

TOM WENKE, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

Referral by the Governor pursuant to Penal Code section 4802 to review a pardon application.

I. DAVIS, DIRK C-23775

DIRK DAVIS, applicant, requested that the board recommend that the Governor grant a pardon. TOM MULLEN, applicant's friend, supported the request.

PUBLIC COMMENTS

CHRISTINE WARD, Crime Victims Action Alliance and I-Can, welcomed a change to proposed Administrative Directive 2015-02, clarifying the role of the victim's support person at a hearing. She thanked the members of the victims' families who spoke at today's meeting.

VANESSA NELSON-SLOANE, Life Support Alliance, stated that the Supreme Court's decision to depublish the *Young* opinion did not invalidate the lower court's criticisms of the board's decisions. She welcomed the court's order in *Butler* and referred to its views regarding the unconstitutionality of disproportionate sentencing.

KEITH WATTLEY, Uncommon Law, stated that 17% of youth offenders receive a parole grant at a hearing, whereas 25% of other inmates are granted parole.

Meeting adjourned at 10:55 a.m.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Monday, June 15, 2015

Meeting Called to Order at 1:03 p.m.

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

Commissioner ANDERSON confirmed that a majority of currently-appointed commissioners is present.

Commissioner ANDERSON stated that the minutes of the May 18th and 19th, 2015, meeting will be considered at the July 2015 meeting.

Commissioner ANDERSON announced that no public comments will be permitted regarding the case of SHAVERS, BARRY K-23249 because it is a case that resulted in a tie vote by the panel. The board must decide the case based on the record that was before the panel.

CONSENT CALENDAR

Commissioner GARNER moved to approve the consent calendar, with the exception of the minutes of the May 18th and 19th, 2015, meeting but including the motion to vacate the panel's decision of May 29, 2015, regarding TYSON, MORGAN C-81713. Commissioner ROBERTS seconded the motion, which carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer

SHAFFER congratulated Commissioners GARNER, MINOR, MONTES, PECK, ROBERTS SINGH and TURNER for having been confirmed by the state Senate.

SHAFFER gave an update on youth offender hearings. The board has scheduled all inmates who were entitled to hearings before the statutory deadline of July 1, 2015. She acknowledged the hard work of staff in achieving this goal, in particular the Forensic Assessment Division, which had to prepare many additional risk assessments in a short time.

SHAFFER stated that the stakeholder conference call took place on June 1, 2015, and there were over 50 participants.

SHAFFER reported that, in May, 2015, she and Commissioner ANDERSON attended the Association of Paroling Authorities International conference in Columbus, Ohio. There were participants from many other states and countries and it was a valuable experience to compare and contrast the different parole systems. SHAFFER hopes that some of the conference speakers will be able to give presentations at future board meetings.

SHAFFER provided the Three Judge Panel data that will be filed with the court today. By May 31, 2015, 982 Senate Bill 260 hearings had been scheduled. There were 664 hearings held, resulting in 189 grants, 410 denials, 63 stipulations, and 2 tie votes. The remaining hearings were waived, postponed, cancelled or continued. From January 1, 2015 to May 31, 2015, 1,764 non-violent second strike inmates were referred to the board for parole review. There were 397 approvals and 362 denials. The remaining cases are pending because the board does not review cases until inmates are within 60 days of the date they will have served at least 50% of their sentence. From February 11, 2014, to May 31, 2015, there were 688 elderly parole hearings. There were 202 grants, 436 denials, 48 stipulations, and 2 tie votes. The other 257 hearings were waived, postponed, cancelled, or continued. As of June 9, 2015, the board had held 34 expanded medical parole hearings. An additional 7 scheduled hearings were waived, postponed, cancelled, or continued.

SHAFFER stated that many determinately-sentenced inmates have received hearings and there are indications that many of them were insufficiently prepared for the hearings. This appears to account for the significant difference between the grant rate for determinately-sentenced youth offenders and offenders eligible for elderly parole and those sentenced to indeterminate terms.

SHAFFER stated that Chief Counsel MOSELEY is on leave until July 3, 2015. Assistant Chief Counsel TIFFANY SHULTZ will present the Chief Counsel's report.

Report from Chief Counsel, presented by Assistant Chief Counsel Tiffany Shultz

SHULTZ referred to the boards' first bench guide on consultations, the final version of which has now been issued. There were no substantive changes from the draft version. The guides will be used to train new commissioners and deputy commissioners and are also intended to inform the public about board procedures. The guides are public documents and will be released as they are completed. The next guide will be on parole consideration hearings and it is anticipated that it will be ready in October, 2015.

SHULTZ referred to the Penal Code section 1170(e) application of MORENO, DAVID K-50835, which the board considered several months ago. On April 21, 2015, the board requested further information from the Division of Health Care Services. The Division subsequently withdrew the application.

Staff Attorney HEATHER McCRAY gave an update on the board's regulations process. She stated that the parole reconsideration hearing regulation package has been revised in the light of Chelsea's Law and criminal justice realignment. The regulations will be finalized soon. The board is working to revise the California Code of Regulations, title 15, division 2. The revision will be ready for the board's consideration towards the end of this summer. The next draft of the youth offender regulations will be ready in July or August, 2015.

Report from Chief Deputy of Program Operations, presented by Board's Information Technology System (BITS) Project Manager, Christine Buffleben

BUFFLEBEN gave a Powerpoint presentation and provided a handout on changes to BITS that will go into production at the end of June, 2015. More functionality has been added to the risk

assessment screen and there will be two new tabs on the suitability proceedings screen. One tab will record the persons present at hearings, the other will enable the panel to see all persons who sent notice of the hearing. The panel will be able to add participants.

The final risk assessment tab in BITS will also be updated to reflect a new risk assessment assignment process. There will also be some changes to the inmate status report. The institution dropdown selection will display an institution's acronym, rather than its full name. The location of non-violent second strike inmates has been added. In addition, the legal tab has been modified to include release-to-parole and release-to-medical-placement memoranda and the "no-later-than" dates have been enhanced for rescission hearings.

BUFFLEBEN stated that the next rollout is planned for July or August. There will be changes to the BITS document management system and to the suitability proceedings screen. The 45-day hold orders for mentally disordered offenders will be able to be drafted and approved in BITS.

A list of changes will appear on BITS on the day of the rollout.

Report from Chief Deputy of Field Operations, presented by Associate Chief Deputy Commissioner Dan Moeller

MOELLER stated that the board appointed four new administrative law judges this month. MOELLER introduced the new administrative law judges and described their professional experience. They will begin training on July 6, 2015 and it is anticipated that they will be ready to participate in hearings by August. The board is planning to appoint an additional five administrative law judges soon, bringing the total to 29.

DISCUSSION ITEMS

Staff Attorney, SUSIE BOOTH presented Administrative Directive 2015-02, defining the role of the victim support person at hearings, for a vote.

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

Presentation by the TimeList Group on Reformed Identity for Self-Empowerment (RISE), presented by Andre Wiley

WILEY gave a Powerpoint presentation describing the rehabilitation and reentry programs provided by RISE. The organization has assisted more than 250 inmates.

YASMIN SHAH, program manager, listed the number of inmates participating in the program, by institution.

WILEY stated that the statistics give today related to incarcerated inmates and that there are five former lifer inmates receiving services in the community. Anyone in the community may request services. The program is funded through donations, foundation grants and recent assistance from Cisco Systems.

PUBLIC COMMENT

KEITH WATTLEY, Uncommon Law, stated that the lower grant rate for determinately-sentenced inmates is not surprising. Many inmates receive late notification of their hearing and have insufficient time to prepare. WATTLEY expressed concern about the number of times the board meets in closed session. He questioned whether the reasons given for meeting in closed session are justified under the provisions of the Bagley/Keene act. He stated that the board should provide more detailed reasons for meeting in closed session.

VANESSA NELSON-SLOANE, Life Support Alliance, commended the Timelist presentation. She expressed concern about the increasing trend in long-term denials. In 2014, there were 56 ten year denials. In 2015, there have already been 38 such denials, with 4 fifteen year denials. NELSON-SLOANE stated that lengthy denials can be counter-productive. She recommended that the board introduce an administrative review of ten year denials, perhaps after three years.

Meeting recessed at 2:10 p.m., to reconvene at 10:00 a.m. on Tuesday, June 16, 2015.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Tuesday, June 16, 2015

Meeting called to order at a.m. 10:03 a.m.

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

Commissioner ANDERSON confirmed that a majority of the currently-appointed commissioners is present. He stated that no public comments are permitted about the tie vote regarding SHAVERS, BARRY K-23249.

EN BANC REFERRALS

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

A. FRAGOSA, BRUCE B-30394

MIGUEL FIGUEROA, victim's husband, opposed a recommendation for recall of sentence. CHRISTINE WARD, Crime Victims Action Alliance, read a letter from the victim's son, DANIEL FIGUEROA, also opposing a recommendation.

Referral by the Chief Counsel pursuant to Penal Code section 3041(b) and California Code of Regulations, title 15, section 2042, to assure complete, accurate, consistent and uniform decisions and the furtherance of public safety.

B. GARZA, ROLANDO C-11215

No speakers.

Referral to consider ordering a rescission hearing, pursuant to California Code of Regulations, title 15, section 2450 et seq.

C. HARRIS, NINAUS C-47388

AARON WEST, Santa Clara County District Attorney's Office, appeared on behalf of the Alameda County District Attorney's Office and supported ordering a rescission hearing.

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

D. SELVIAN, CHALEN

E-62457

MARSHA PERRY, inmate's mother and PAMELA MARTIN, inmate's cousin, supported the parole grant.

LAURA KRIEG, Tuolumne County District Attorney's Office, recommended ordering a rescission hearing. GINGER MARTIN, Tuolumne County Witness Assistance Center, read a letter from the victim, PAMELA COMER, recommending ordering a rescission hearing.

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

E. SHAVERS, BARRY

K-23249

No speakers permitted.

PUBLIC COMMENT

VANESSA NELSON SLOANE, Life Support Alliance, stated that some inmates have not received their comprehensive risk assessments in sufficient time to prepare for their hearing. Many inmates have also not received their hearing transcripts within 30 days. NELSON-SLOANE stated that it is inappropriate for institutional staff to act as interpreters at a hearing. She invited the commissioners to attend a picnic organized by Life Support Alliance in Southern California.

TIFFANY JOHNSON, A New Way of Life, introduced former lifer inmates, AHMAD PHILLIPS, NORMAN MITCHELL, OZELL JOHNSON, SHAWN BOYKIN, MARIA FLORES, MYRA SMITH and SHANAE POLK, who thanked the board and described their success on parole.

Meeting adjourned at 10:55 a.m.

Board of Parole Hearings
Scheduled and Backlog Hearings Report
Penal Code section 3041(d)
July, 2015

