

BOARD OF PAROLE HEARINGS
Executive Board Meeting
December 21 & 22, 2015

December 21, 2015

Meeting Called to Order at 1:55 p.m.

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

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

CONSENT CALENDAR

Commissioner Roberts moved to approve the consent calendar, including a motion to vacate the panel's decision in the case of GOMEZ, ROBERT H-51048. Commissioner TURNER seconded the motion, which was carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer

SHAFFER stated that the Three-Judge Panel Status Report was filed on December 15, 2015 and is posted on the board's website. The board is working to implement the provisions of Senate Bills 261 and 519 and 7,200 inmates have been screened to date. There are 2,400 first priority inmates who have yet to be screened. The legal division has began screening inmates with hearings through June 2016. It has completed screening 446 inmates with hearings through March 2015. The screening results are posted monthly on the board's website. SHAFFER stated that 1,298 suitability hearings have been scheduled from January through March of 2015 so roughly a third of the hearings during that period will be for youth offender hearings.

SHAFFER stated that investigators BARBARA ADAMS and DAMION CANO have retired. And commissioner SINGH is leaving the board, to take up another post. SHAFFER thanked her for her service.

Commissioner SINGH responded by thanking the board's staff for their assistance.

SHAFFER also announced the departure of Chief Counsel HOWARD MOSELEY, who has been appointed as Chief Deputy General Counsel of the California Department of Corrections and Rehabilitation. She thanked him for his service and commended the improvements to the Board's practices that he has introduced.

MOSELEY thanked SHAFFER and the Board's staff for their assistance. He thanked the staff of the legal division for their professionalism and support. He acknowledged, in particular, the help that SANDY SINCLAIR has provided.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
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SHAFFER stated that Assistant Chief Counsel, TIFFANY SHULTZ will be the Acting Chief Counsel, pending appointment of MOSELEY's successor.

Report from Chief Counsel, Howard Moseley

MOSELEY reported on the implementation of Senate Bill (SB) 230, effective January 1, 2016. SB 230 allows for the immediate release of inmates found suitable for parole by the Board of Parole Hearings upon reaching their minimum eligible parole date, subject to the board's decision-review process and the Governor's review. SB 230 will apply immediately to approximately 20 inmates who have been granted parole in the past but whose release dates were set in the future as a result of their base term and adjusted base term calculations. Release memoranda will be issued in the new year for these inmates. Going forward, inmates who reach the earliest of their minimum eligible parole date, youth parole eligibility date or elderly parole release date and who have been granted parole will be eligible for release.

MOSELEY stated that there was a hearing last week in *Johnson v. Shaffer*, at which the court ordered the parties to submit briefs on several issues. It is hoped that the court will render a decision in January 2016.

Youth offender hearings, pursuant to Senate Bill 261, will start in January 2016 and there are some inmates whose risk assessment has not been updated to include an evaluation of their youth offender factors. The inmates have been made aware of their options; namely to proceed with the standard hearing or waive the hearing. After January 1, 2016, potential status as a youth offender is not good cause for a postponement. If inmates choose to proceed with the hearing and are denied parole, they will receive a youth offender hearing, with an updated risk assessment before January 1, 2018. The petition to advance a hearing and administrative review processes will still apply.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL stated that, pursuant to the Three-Judge Panel's order, the Board has created a procedure to evaluate the parole suitability of non-violent second strike inmates. Notices are sent, informing victims and district attorneys that an inmate's case is being reviewed. Approximately 1,470 notices have already been sent. After 30 days, deputy commissioners evaluate an inmate's suitability for release, taking into account any responses that have been received.

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

SKIPPER-DOTTA stated that she attended the three-day National Association of Hearing Officers conference in Arizona.

Report from Chief Psychologist, Forensic Assessment Division, Dr. Cliff Kusaj

KUSAJ stated that, in December, 2015, 229 assessments were assigned for January 2016 in relation to hearings that are scheduled for February 2016. The aim of the Forensic Assessment Division is to complete assessments 60 days before a hearing. It is hoped to meet that goal within the next two months. Two clinicians have been promoted to senior psychologists. Tentative offers of employment have been made to nine psychologists.

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DISCUSSION ITEMS

Administrative Directive 2015-04, regarding Ex Parte Communication, presented by Staff Attorney, Mina Choi

CHOI described the provisions of the proposed directive.

Public Comment

VANESSA NELSON-SLOANE, Life Support Alliance, stated that many inmates' counsel were unaware of the provisions of the directive. She has received questions about the consequences of a panel member making an impermissible ex-parte communication.

Commissioner PECK moved to adopt proposed Administrative Directive 2015-04. Commissioner ZARRINNAM seconded the motion, which carried unanimously.

Revised Administrative Directive 2013-07, Guidance on Parole Consideration Hearings for Youth Offenders, presented by Staff Attorney, George Bakerjian

BAKERJIAN described the revisions made on December 21, 2015 to the directive.

Public Comment

KRISTIN BELL, Post-Conviction Justice Project, regretted that it will not be possible for youth offender risk assessments to be prepared for all currently-scheduled hearings that fall within the scope of Senate Bills 260 and 261.

KEITH WATTLEY, Uncommon Law, questioned whether the Board will allow same-day postponements where a youth offender risk assessment has not been prepared. He hoped that all such assessments will be prepared by the end of 2017.

MOSELEY stated that postponements may be requested on the day of a hearing. Panels will consider the merits of each application and adjudicate accordingly.

Commissioner ZARRINNAM moved to adopt the revised Administrative Directive 2013-07 and was seconded by Commissioner TURNER. All commissioners except Commissioner PECK, who abstained, voted to approve the directive.

PUBLIC COMMENT

VANESSA NELSON-SLOANE, Life Support Alliance, welcomed the increased transparency in the Board's proceedings. She expressed concern about risk assessments and the use of confidential information. Life Support Alliance is producing a video, "Date to the Gate," which will be shown in institutions.

KRISTIN BELL, Post-Conviction Justice Project, expressed concern that some consultations are being conducted in groups, rather than individually. She stated that panels must also give great weight to youth offender factors when determining the length of a parole denial.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
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Meeting recessed at 2:50 p.m.

December 22, 2015

Meeting called to order at 10:02 a.m.

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

EN BANC REFERRALS

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

B. ALVAREZ, GUADALUPE T-37865

ROBIN SHAKLEY, Sacramento County District Attorney's Office, opposed a referral for recall of sentence.

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. JACOBSON, BERNAL B-47556

No speakers.

D. PASERI, VINCENT E-92998

MARIAM ELMENSHAWI, attorney, read a letter from the victim's sister, BRENDA LARSON, who stated that she had complied with all requirements to participate in the inmate's hearing, but had been denied the opportunity to address the panel.

ADAM SILVA, attorney, Victim and Crime Resource Center, submitted that a rehearing should be ordered to satisfy Ms. LARSON's constitutional right to participate in the inmate's hearing.

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Executive Board Meeting
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E. RICHARDS, MERRIL C-66928

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, submitted that a rehearing should be ordered.

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.

F. MCCLAIN, MILTON K-06923

JUNE HAWTHORN, inmate's aunt and CHARLES MCDOWELL, inmate's father, supported his grant of parole.

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

G. RICHARDS, MERRIL C-66928

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

H. TORRES, MIGUEL H-48211

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing. She stated that the victim had been denied the opportunity to participate in the hearing.

SHAFFER requested Acting Chief Counsel, TIFFANY SHULTZ, to inquire into the circumstances of the victim's inability to participate in the hearing.

LAWRENCE MORRISON, Los Angeles County District Attorney's Office, read a letter from the victim, DON MEREDITH, opposing the inmate's release on parole.

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I. WHITE, GARY

E-50175

CASANDRA JENECKE, Tuolumne County District Attorney's Office, recommended ordering a rescission hearing.

J. WILLIAMS, VOLTAIRE

E-17796

ANN REED, inmate's mother, supported his parole grant.

LAWRENCE MORRISON, Los Angeles County District Attorney's Office, WILLIAM HAYES and KIRK ALBANESE, Los Angeles Police Department, and JACKIE LACE, District Attorney of Los Angeles County, recommended ordering a rescission hearing. CHRISTINE WARD of I-Can and Crime Victims Action Alliance, read a letter from the victim's widow, NORMA WILLIAMS, opposing the inmate's release on parole.

PUBLIC COMMENT

CHRISTINE WARD, I-Can and Crime Victims Action Alliance, stated that victims often participate in hearings through their home telephone. Many victims find the experience distressing and WARD requested that panel's take into account the victim's emotional state. WARD expressed concern at the instances where victims have been denied their right to participate in the hearing, despite following all the requirements.

MELVIN BROOKINS, former life inmate, described his experiences since being granted parole.

Meeting adjourned at 11:22 a.m.

Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

January, 2016

