

BOARD OF PAROLE HEARINGS
Executive Board Meeting
May 16 & 17, 2016

May 16, 2016

Meeting Called to Order at 1:04 p.m.

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

Commissioner PECK confirmed a majority of currently-appointed commissioners was present. He stated Commissioner ANDERSON and Executive Officer SHAFFER were attending the Paroling Authorities International Conference.

CONSENT CALENDAR

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

REPORTS AND PRESENTATIONS

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

MACIEL summarized the Three-Judge Panel Status Report, filed on May 16, 2016. The Board conducted 1,265 youth offender hearings from January 1, 2014 to April 30, 2016, resulting in 347 grants, 776 denials and 142 stipulations to unsuitability. There were no current split votes for the Board's consideration. There were 687 hearings waived, postponed, continued or cancelled.

As of May 5, 2016, approximately 2,196 third strike inmates were released. From January 1, 2015 to April 30, 2016, 7,065 non-violent second strike inmates were referred to the Board. The Board approved 2,273 inmates for release and denied release to 2,210 inmates. Many reviews are pending because the 30-day written input period has not elapsed. Other reviews are pending until the inmate is within 60 days of his or her 50 percent time-served date.

From February 11, 2014 to April 30, 2016, there were 1,300 elderly parole hearings, resulting in 348 grants, 855 denials and 97 stipulations to unsuitability. There are no current split votes for the Board's consideration. There were 602 hearings waived, postponed, continued or cancelled.

Up to May 9, 2016, there were 80 medical parole hearings, with 23 hearings postponed, continued or cancelled.

MACIEL stated that the stakeholder conference call took place on April 29, 2016 and there were approximately 80 participants. The Board plans to hold future conference calls on Mondays, rather than Fridays.

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Executive Board Meeting
May 16 & 17, 2016

Report from Chief Counsel, Jennifer Neill

NEILL summarized the decision of the California Court of Appeal, Fourth Appellate District in *Re: Busch*. The inmate petitioned for writ of habeas corpus, challenging the Governor's reversal of the Board's grant of parole. The inmate contended the Governor's decision was based upon his failure to admit guilt, thereby violating Penal Code section 5011. He further contended the Governor's decision failed to articulate a rational nexus between the circumstances of the crime and his current risk of dangerousness. The court rejected the contentions and held, in determining the inmate's credibility and current risk of dangerousness, the Governor was entitled to take into account his implausible denial of guilt. The Governor's decision did not require the inmate to admit guilt for the offense; therefore, he did not violate Penal Code section 5011. NEILL stated the principles articulated in the decision apply equally to the Board's parole consideration hearings.

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

KUSAJ stated FAD psychologists were assigned 279 comprehensive risk assessments in May, 2016, for completion in June, 2016. Most assessments were for hearings scheduled after August 15, 2016. All but one assessment is completed and distributed at least 30 days before the hearing. Approximately 60% are completed at least 60 days before the hearing. There are no unassigned assessments on the August hearing calendar. It is anticipated next month fewer assessments will be distributed less than 60 days before the hearing.

KUSAJ stated that inmates with hearings after June 1, 2016 will be scheduled for risk assessments if the most recent assessment is more than three years old or if the assessment is less than three years old but does not incorporate elderly parole or youth offender considerations for qualifying inmates. For scheduling purposes, the age of the assessment is determined by the length of time from the senior psychologist's original approval to the hearing date.

PUBLIC COMMENT

VANESSA NELSON-SLOANE, Life Support Alliance, welcomed the Board's opening its April, 2016 training sessions to the public. She stated some inmates are diagnosed with post-traumatic stress disorder, resulting from combat experiences. She suggested future trainings include a presentation on the issue.

Meeting recessed at 1:15 p.m.

May 17, 2016

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

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

Commissioner PECK confirmed a majority of currently-appointed commissioners is present. He stated that the referral of RAPHAEL CALIX (D-11492) was withdrawn.

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EN BANC REFERRALS

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

A. BOGOVICH, STEPHEN C-89465

No speakers.

~~B. CALIX, RAPHAEL D-11492~~

Referral withdrawn.

C. FELICIANO, GEORGE H-59472

No speakers.

D. PICCOLO, JONATHAN J-47519

DONNA LEBOWITZ, Los Angeles County District Attorney's Office, supported the hearing panel's decision denying parole.

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.

E. HENRY, MICHAEL C-18916

KATEY GILBERT, inmate's attorney, supported the decision granting parole.

DONNA LEBOWITZ, Los Angeles County District Attorney's Office, submitted that a rescission hearing be ordered.

F. KOHLER, BRAD T-56363

LINDA KATHERINE KOHLER, inmate's mother, supported his release on parole.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
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LINDA GROBERG, Ventura County District Attorney's Office, submitted that a rescission hearing be ordered. CHRISTINE WARD, I-Can, read a letter from the victims' mother, RENEE RAMIREZ, opposing the inmate's release on parole.

G. TATE, CLARENCE K-76014

DONNA LEBOWITZ, Los Angeles County District Attorney's Office, submitted that a rescission hearing be ordered.

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

H. MCINTOSH, JAMES P-87642

No public comment permitted.

PUBLIC COMMENT

CHRISINTE WARD, I-Can, stated she recently observed parole consideration hearings. She expressed concern about some expressions used by panel members in relation to rape and domestic violence cases. WARD stated rape should not be referred to as, "having sex", and domestic violence is not a "crime of passion". The crimes are acts of violence, power and control. She requested that panels not use such expressions during hearings.

VANESSA NELSON-SLOANE, Life Support Alliance, gave an overview of issues involving the Governor's reversal of parole grants.

Commissioner GARNER stated that Commissioner BIGGERS died in March, 2016. He paid tribute to Commissioner BIGGERS's public service, in particular his military service and time at the Board.

Meeting adjourned at 10:42a.m.

Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

June, 2016



