



**Pre-Hearing Preparation
and Motions**

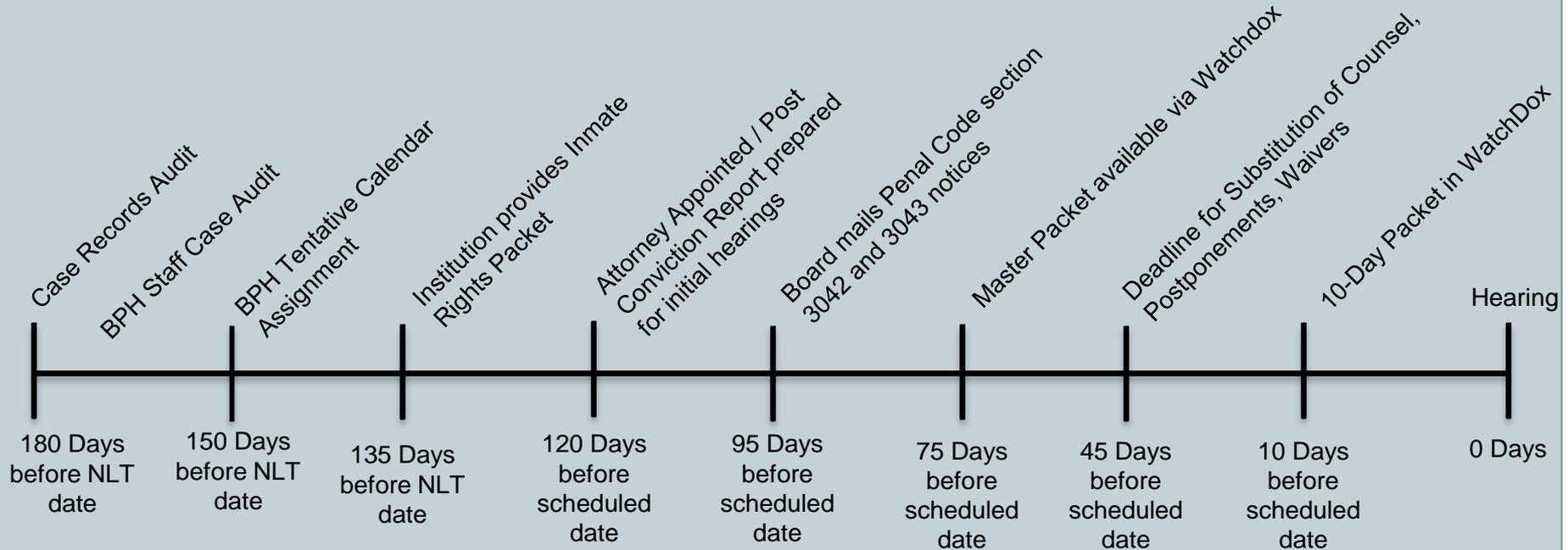
Topics Covered

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1. Hearing Timeline
2. Reviewing a Central File
3. Materials Available to Attorneys
4. Client Interviews and Preparing Documents for the Hearing
5. Substitution of Counsel
6. Waivers, Stipulations, Postponements, & Continuances

Hearing Timeline

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NLT = No Later Than
(hearing is to occur no later than specified date)

Scheduled date = Hearing date

Reviewing a Central File

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Paperless

- All inmate C-Files are digital
- SACCO inmates have paper c-files
- Generally, use CD and terminal at an institution

Electronic Records Management System (ERMS)

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SoMc Preferences Logout ? i

ALERT CASE SUM LEGAL FP CLASS DISC GEN-CHRONOS MISC HWD PAR BPH FICHE AD SEG CONF PHOTO ED DCH EX ADV MASH Open Items

* CDCR#: Enter CDCR number and press ENTER key. You are logged in as: MINA.CHOI

Offender Identification

CDCR NUMBER NOT FOUND. PLEASE RE-ENTER.

Find C-File Documents

Document Type:

Date: Date Range From: To:

Items per page: 1000

Document Date Document Type Comments

No items

Select a document from the list to view it here

Central File Components

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- Case Summary
- Legal
- Classification Chronos
- Disciplinary
- General Chronos
- Miscellaneous
- Holds/Warrants/Detainers
- Parole
- BPH
- Confidential(Cal. Code Regs., tit. 15, § 2235.)

Hearing Packet (WatchDox)

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1. Case Summary
2. Legal
3. Classification
4. Disciplinary
5. General Chronos
6. Miscellaneous
7. BPH
8. Confidential – 810 Form

Master Hearing Packet for a Suitability Hearing

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BOARD OF PAROLE HEARINGS **INITIAL/SUBSEQUENT PAROLE HEARING PACKET CHECKLIST**

1. CASE SUMMARY (Case #)

- Legal Status Summary [**SOMS**]
- Police/Arrest Reports (commitment offense)
- Probation Officer's Report (commitment offense)

2. LEGAL

- Abstract of Judgment (commitment offense)
- Minute Order (commitment offense)
- Sentencing Transcripts (commitment offense)
- Appellate Court Decision(s) (commitment offense)
- In Re Thompson (if applicable) (abstract of judgments from cases convicted of while serving life the sentence)
- Tate Term (if applicable for DSL inmate)

3. CLASSIFICATION

- CDC 1030 Confidential Info. Disclosure
- CDC 128G Classification Chrono (most recent annual) [**SOMS**]

4. DISCIPLINARY

- CDC 115 (all)
- CDC 128A Custodial Counseling Chrono (since last hearing)

5. GENERAL CHRONOS

- CDC 128B General Chrono (since last hrg)
- CDC 128E Educational progress reports (last 5 years) [**SOMS/ERMS**]
- CDC 128C-2 Recommendation for Adaptive Support (most recent)
- CDC 101 Work Supervisor Reports (last 5 years)

6. MISCELLANEOUS

- Vocational/Self Help Certificates

7. BPH

- BPH 1002 Notice of Hearing Rights (current hearing only)
- BPH 1003 Request for Attorney/BPH1001(a) Waiver of Attorney (current hearing only)
- BPH 1073/1073(a) ADA Accommodations (current hearing only)
- PTA Approval Package (includes 1045/1045B, etc.) (if applicable) [**ERMS/BITS**]
- Admin. Review Approval - Misc. Dec. (if applicable) [**ERMS/BITS**]
- En Banc Decision [**BITS**]
- Governor's Reversal Letter [**ERMS/Legal Drive**]
- Face Sheet & Decision Portion of Transcript for last decision (denial/grant/stip)
- BPT 1004 Progress Reports
- BPH 1087 PC 3042 Notice of Hearing & Responses (current hearing only)
- Risk Assessments (2009 & forward)
- Letters of Support (current hearing)
- Letters of Opposition Non-Confidential (current hearing only)
- Parole Plans (current hearing only)

8. CONFIDENTIAL

- CDC 810 Confidential Info. Listing
- CDC 810A Confidential Info. Listing – Knowledge of Receipt

10-Day Hearing Packet for a Suitability Hearing

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BOARD OF PAROLE HEARINGS **10-DAY HEARING PACKET CHECKLIST**

- CASE SUMMARY**
- LEGAL**
- CLASSIFICATION**
- DISCIPLINARY**
- GENERAL CHRONOS**
- MISCELLANEOUS**
- BPH**
- CONFIDENTIAL**

Late Mail Folder

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- Includes any materials received within 10 days of the hearing
- Usually contains letters
- Inmate documents and victim impact statements forwarded to participants

Client Interviews

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- Meet in advance of 45-day deadline for postponements and waivers
- Review Hearing Packet
- Review C-File
- Review DECS for communication issues
- Bring New BPH 1003 form
- Meeting with the client
 - Gate Clearance
 - Check Institution Status

Client Interviews

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Failure to meet with client more than 45 days before hearing is not good cause for a waiver.

Preparing Documents for the Hearing

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- Inmate entitled to present relevant documents at hearing
- Documents should be brief, pertinent, and clearly written
- Panel will accept up to 20 single-sided or 10 double-sided pages of material (not including support letters)

(Cal. Code Regs., tit. 15, § 2249.)

Administrative Directive 2013-06

New Form

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Provided with these materials

BPH 1003 (Hearing Rights Form) to request:

1. Waiver
2. Postponement
3. Substitution of counsel
4. Waive counsel

Substitution of Counsel

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- California Code of Regulations, title 15, section 2256(c) entitles inmates to an attorney at state expense
- New BPH form 1003 (Hearing Rights Form)
- If inmate wants to substitute with private counsel, must submit a BPH form 1003

Administrative Directive 2014-02

Substitution of Counsel

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Panel attorney remains appointed counsel, until Board approves request for substitution of counsel:

Board notifies in two ways:

1. Email Revision of calendar (sent to former and newly retained attorney)
2. Updated Grid Calendar (showing all assigned hearings)

Inmate telling you he has a new attorney is not sufficient.
Email lifer analyst email if unsure.

BPH Form 1003

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- Must be signed by **both** inmate and private counsel
- Must be submitted **at least 45 days** prior to hearing date. Private counsel **must be ready** to proceed with scheduled hearing date.
- If submitted within 45 days of hearing, board will deny or approve.
- If submitted during week of hearing, presiding hearing officer will deny or approve request.

Administrative Directive: 2014-02

Waivers,
Postponements,
Stipulations,
and Continuances

Administrative Directives 2013-03A, 2013-03B, 2013-03C

Waivers, Stipulations, Postponements, and Continuances

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California Code of Regulations, title 15, section 2253(a)

“The rights and interests of all persons properly appearing before a [B]oard [of Parole Hearings] life parole consideration hearing are best served when hearings are conducted as scheduled.”

Waivers, Stipulations, Postponements, and Continuances

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Four Ways a Hearing Can Be Delayed or Resolved Without a Full Hearing:

1. Voluntary Waiver
2. Stipulations of Unsuitability
3. Postponements
4. Continuances

(Cal. Code Regs., tit. 15, § 2253.)

Waivers

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- Waive for 1, 2, 3, 4 or 5 years
- May only waive three consecutive parole hearings (waivers frequently denied on this basis).
- Inmate **not** eligible to submit a petition to advance next hearing
(Cal. Code Regs., tit. 15, § 2253(b).)

Waivers (continued)

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- Presumed **valid** if submitted **more than 45 days** prior to hearing
- Presumed **invalid** if submitted **within 45 days** of hearing

A waiver submitted within 45 days of the hearing must show:

- 1) Good cause, AND
- 2) The reason(s) given were not and could not reasonably have been known to the inmate 45 days before the hearing

Good Cause

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“[A] finding by the board based upon a preponderance of the evidence that there is a factual basis and good reason for the decision made.”

(Cal. Code Regs., tit. 15, § 2000(b)(50).)

The “good cause” standard applies to:

- Waivers within 45 days of hearing
- Postponements for non-enumerated reasons
- Continuances at the motion of the panel

Good Cause

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Lack of Parole Plans is not good cause for a late submitted waiver.

Lack of insight is not good cause for a late submitted waiver.

Postponements

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- May be initiated by the hearing panel or the inmate
- Rescheduled on next available hearing calendar, unless panel specifies otherwise (max of 11 months)
- Inmate **not** eligible to submit a petition to advance next hearing

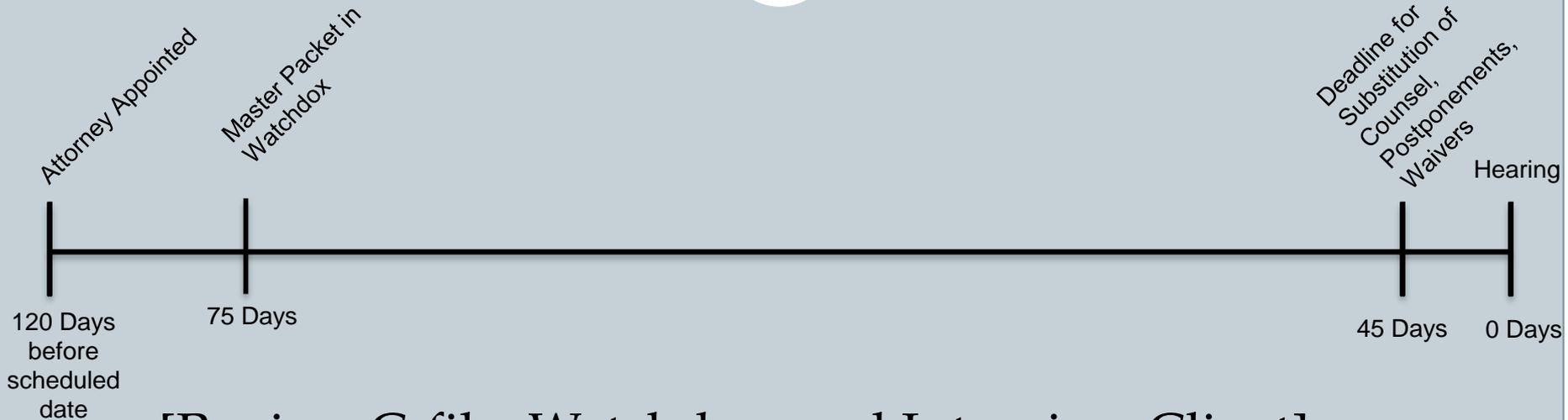
(Cal. Code Regs., tit. 15, § 2253(d).)

Postponements (continued)

- Postponements for **enumerated reasons** are automatically valid. (Cal. Code Regs., tit. 15, § 2253(d)(1).)
- Postponements for **non-enumerated reasons** require the following:
 - 1) Inmate wants to resolve matters relevant to hearing;
 - 2) Good cause is shown; AND
 - 3) Inmate did not and could not have known about the need for a postponement any earlier

Hearing Timeline

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[Review C-file, Watchdog, and Interview Client]

Do not wait to interview client, or submit request for a postponement or a waiver until the 45th day before hearing

Stipulations

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- Governed by Marsy's Law denial lengths (3, 5, 7, 10, or 15 years)
- Must be at hearing; victims entitled to be heard at hearing
- Inmate **is** eligible to submit a petition to advance next hearing

(Cal. Code Regs., tit. 15, § 2253(c)(1).)

Continuances

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- Initiated by hearing panel
- Occur after start of a hearing, but circumstances require a pause.

(Cal. Code Regs., tit. 15, § 2253(e).)

Continuances

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- Rescheduled on next available hearing calendar
- If same panel is not available, hearing is de novo
- Inmate **not** eligible to submit a petition to advance next hearing

Continuances

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Continuances require a showing of:

- 1) Good cause, and
- 2) Reason could not reasonably have been known by the party requesting the continuance prior to the hearing

BPH Form 1003

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To request a postponement or waiver....

do not give the form to the BPH Lifer Desk
at the institution.

BPH Form 1003

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To request a postponement or waiver....

Attorney must email or fax the form to BPH lifer analyst:

- Email: bphliferanalyst@cdcr.ca.gov
- Fax: (916) 322-9337