

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Monday, May 19, 2014

The meeting was called to order at 1:09 p.m.

CONSENT CALENDAR

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

Comments and Clarification regarding Board of Parole Hearings Meeting Minutes, April 15, 16 and 17, 2014: None

Public Comment on Consent Calendar: None

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

REPORTS AND PRESENTATIONS

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

MACIEL reported that Executive Officer, Jennifer SHAFFER and Commissioner Arthur ANDERSON are attending a conference in Denver, Colorado. SHAFFER will report on the conference at the June, 2014 meeting.

The annual BPH Orientation for panel attorneys is scheduled for October 6, 2014, in Sacramento (northern California) and October 13, 2014, in Diamond Bar (southern California).

Report from Chief Counsel, Howard Moseley

MOSELEY reported on draft regulations developed by the legal division in compliance with the court's order in *In re Butler* affecting the timing of base term and adjusted base term calculations. He provided the Board and the public copies of the draft regulations and invited feedback from all interested parties. He also reviewed key terms used in the draft regulations. MOSELEY emphasized that the draft regulations do not change the legal framework for determining suitability for parole or setting a parole release date. He estimated that the draft regulations will be presented to the full Board for a vote in one to three months time.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL reported that new recording equipment will be installed at all institutions and that the commissioners and deputy commissioners will be trained on its operation. In addition, every institution has now successfully transmitted an audio recording of a parole hearing to the Board

utilizing new digital transfer technology. This shift in practice should improve the accuracy of audio recording transfers from the institutions to the Board.

Christine BUFFLEBEN, Parole Agent II, gave a presentation regarding changes to the LSTS database that will be implemented in the very near future. In short, the LSTS database has been linked to the SOMS database, which will allow the LSTS database to serve as a portal to the SOMS database which contains more comprehensive offense information. Other changes include easier access to information regarding inmate sentencing, life term start dates, youth offender status, petitions to advance, and institutional movement.

Commissioner Ali ZARRINAM asked if it would be possible to create a link to the most recent comprehensive risk assessment. BUFFLEBEN stated that a link could be created as part of a future update.

DISCUSSION ITEMS

Draft Administrative Directive 2014-01, Audio and Video Conferencing at Parole Suitability Hearings, presented by Chief Counsel, Howard Moseley

MOSELEY stated that feedback from various stakeholders resulted in positive changes to the draft directive. For instance, page two of the directive now makes clear that if a registered victim changes their mind and wishes to appear in person instead of waving that right and attending via audio or video conferencing, they may do so provided adequate notice is provided to the Board so the necessary arrangements can be made. The directive also clarifies that victim impact statements may be submitted anytime up to and including at the hearing (in other words, the so-called ten-day rule for submission of written materials to the Board does not apply to victim impact statements).

MOSELEY also briefed the commissioners on the contents of an e-mail received from Christine WARD, Crime Victims Action Alliance, who was unable to attend the meeting indicating her opposition to any language in the directive that would require victims waive their right to appear in person in order to attend via audio or video conferencing.

Public Comments on Draft Administrative Directive 2014-01

Vanessa NELSON-SLOANE, Life Support Alliance, expressed concern that the Board would be unable to prevent the distribution of audio or video recordings of the parole hearings on the internet given the difficulty of preventing unauthorized recordings of those hearings by individuals attending via audio or video conferencing.

Commissioner ROBERTS moved to adopt Administrative Directive 2014-01. Commissioner TURNER seconded the motion, which was carried unanimously.

PUBLIC COMMENTS

Susan BURTON, Executive Director, New Way of Life, updated the Board on the progress of those former life-term inmates who have been released on parole and participated in her program.

Dale CLEMENTS, Nannie WILKERSON and Tiffany JOHNSON, former life-term inmates and participants in the New Way of Life program, described their progress on parole.

Cleveland BAKER, former life-term inmate, expressed concern with the lack of transitional housing facilities.

Vanessa NELSON-SLOANE, Life Support Alliance, stated that inmates have experienced difficulties ensuring that relevant documents are included in their central file prior to their parole hearings. She requested that commissioners exercise their discretion and accept more than 20 pages of documents if submitted by an inmate at the hearing. NELSON-SLOANE stated that Life Support Alliance is hosting a seminar on Saturday and invited commissioners and members of the public to attend.

Gail BROWNE, Life Support Alliance, stated that there have been many instances where documents have disappeared from inmates' central files. She requested that commissioners take this into account if inmates submit additional documents at the hearing.

Meeting recessed at 1.55 p.m., to reconvene at 10.00 a.m., May 20, 2014

BOARD OF PAROLE HEARINGS
Executive Board Meeting
Tuesday, May 20, 2014

The meeting was called to order at 10:09 a.m.

Roll Call: Commissioners Fritz, Garner, Guerrero, Labahn, Montes, Peck, Richardson, Roberts, Singh, Turner, Zarrinam present. Commissioner Anderson Absent.

EN BANC REFERRALS

Referrals pursuant to Penal Code section 1170(e) to determine eligibility for resentencing or recall of sentence by sentencing court:

A. BOWIE, MICHAEL P-89470

Julian PIERSON, inmate's brother, supported a recall of sentence.

B. CHAPLIN, MARVIN E-20848

No speakers.

C. HANSEN, ERNEST G-20021

Philip KASSEL, inmate's attorney, supported a recall of sentence.

Referrals by the Chief Counsel, pursuant to California Code of Regulations, title 15, section 2042:

D. ALVARES, CARLOS K-42144

Katey GILBERT, inmate's attorney, supported a rehearing.

E. DORSEY, THOMAS D-65941

No speakers.

F. HOUSTON, VAN K-04714

No speakers.

G. HYMES, LANZESTER D-94875

No speakers.

H. JEFFERSON, ANTHONY J-58635

No speakers.

I. LIANG, HUO T-25268

No speakers.

J. LY, LUO T-25079

No speakers.

K. SANCHEZ, JAMES H-38648

No speakers.

L. SPATZ, JAMES D-19137

Marc NORTON, inmate's attorney, opposed a rehearing.

Phyllis SHESS supported a rehearing.

Referral by the Governor, pursuant to Penal Code section 3041.1:

M. CHIAMULON, RICHARD V-48226

Tom WENKE, Los Angeles County District Attorney's Office, supported reversal of the panel's proposed decision.

N. GALLEGOS, RAMON C-82553

Phyllis SHESS supported reversal of the panel's proposed decision.

Christine WARD, Crime Victims Action Alliance, read a letter from the victim supporting reversal of the panel's proposed decision.

O. LOSE, PHILLIP

E-52617

Alexis DE LA GARZA, Los Angeles County District Attorney's Office, supported reversal of the panel's proposed decision.

Referral by a panel member, pursuant to Penal Code section 3041(a), to request review of a parole decision:

P. GLASPER, ABRAHAM

E-04111

Andrew MURRAY, inmate's attorney, supported a rehearing.

Evelyn GLASPER, inmate's mother, Jennifer JACKSON, inmate's friend, Jeanette PATE, inmate's friend, Jason DAVISON, inmate's brother, and Anderson HILL, inmate's uncle, all supported a rehearing.

James WADE, San Mateo County District Attorney's Office, opposed a rehearing.

Jesse MENDEZ, partner of the victim's mother, Cierra CROWELL, victim's sister, and Joseph CROWELL, victim's brother, all opposed a rehearing.

Jill KLINGE, Alameda County District Attorney's Office, read a letter from Karen NOLAN, victim's mother, opposing a rehearing.

Q. OLIVAREZ, RAYMOND

H-15412

No speakers.

Referral, pursuant to Penal Code section 3041.1, following a tie vote:

R. HUNTER, EDDIE

E-40058

Public comment prohibited by statute.

S. MCINTOSH, CLARA

W-26630

Public comment prohibited by statute.

OPEN COMMENTS

Christine WARD, Crime Victims Action Alliance, expressed concern that victims are not fully informed of the reasons that parole decisions may be modified or referred en banc. WARD recommended that the Board provide victims with greater transparency.

Jill KLINGE, Alameda County District Attorney's Office, stated that district attorney offices have experienced difficulties preparing for hearings scheduled pursuant to a petition to advance or administrative review because some institutions have refused to provide updated Board reports. In addition, C-Files have proven difficult to access through the ERMS database because the files are not divided into tabs by subject but often scanned as a single group instead; the poor pagination often leads to difficulty obtaining correct copies from institutional staff; and the institutions have not been cooperative in allowing the files to be viewed at the nearest institution rather than the institution where the inmate is housed. KLINGE also stated that the regulatory matrices used by the Board to calculate base terms and adjusted base terms are inadequate and perhaps should be replaced.

Vanessa NELSON-SLOANE, Life Support Alliance, stated that an increase in institutional transfers has caused serious disruptions in the successful programming of life-term inmates and that many institutions do not provide sufficient programs to lifers, instead giving priority to determinately-sentenced inmates. NELSON-SLOANE also expressed the view that the Long-Term Offender Program is inadequate.

Meeting adjourned at 11.40 a.m.

**Board of Parole Hearings
Executive Board Meeting
Monday, June 16, 2014**

Meeting called to order at 1:05 p.m.

CONSENT CALENDAR

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

Commissioner ANDERSON stated that the minutes for the May, 2014 meeting were not posted in time for the board to vote on them at this meeting. Accordingly, the minutes will not be considered for approval until the July, 2014 meeting.

Commissioner TURNER moved to approve the consent calendar, with the exception of the May, 2014 minutes. Commissioner ROBERTS seconded the motion, which was carried unanimously

REPORTS AND PRESENTATIONS

Report from Jennifer Shaffer, Executive Officer

SHAFFER reported that she and Commissioner ANDERSON attended the Association of Paroling Authorities International (APAI) conference in Colorado last month. There was a presentation about youth offenders at the conference that was particularly relevant. A speaker at the conference, Dr. Jennine HALL, will be giving a similar presentation today on adolescent brain development. SHAFFER also reported that she met with the Executive Director of the New Zealand parole board, who came to California and observed a parole consideration hearing at Folsom State Prison. SHAFFER thanked Commissioner PECK for serving as chairperson at the May meeting. She also thanked Chief Deputy of Program Operations, Sandra MACIEL, for acting in the executive officer's place at the meeting.

Commissioner ANDERSON agreed that the conference had been a valuable experience and also thanked Commissioner PECK for serving as chairperson at the May meeting.

SHAFFER stated that the quarterly stakeholder conference call will take place on June 30, 2014. In addition, she and Chief Counsel MOSELEY will be attending a District Attorneys' conference in southern California on June 23, 2014.

SHAFFER stated that the legislature passed the state budget yesterday. She welcomed the increase of over \$2 million in the Board's budget. This will enable the creation of 23 positions, and provide resources to handle additional hearings and processes associate with the court

rulings in *Coleman/Plata* and implementation of Senate Bill 260, to include expanded medical parole, elderly parole, youth offenders, and a parole process for certain “second-striker” inmates.

Report from Howard Moseley, Chief Counsel

MOSELEY introduced Staff Attorney Kara HOUSTON, who gave a presentation on draft Administrative Directive 2014-02. HOUSTON summarized the draft directive, which addresses the issues of substitution of counsel and waiver of counsel. She also provided a handout. MOSELEY invited feedback on the directive.

MOSELEY also invited feedback on the draft regulations implementing the *Butler* settlement agreement. He anticipated that the Board will consider the draft regulations for approval at the July, 2014 meeting.

MOSELEY clarified aspects of the Board’s administrative directive dealing with submission of documents at a hearing. He emphasized that the 2- page limit does not apply to support letters. He further emphasized that the panel retains discretion to admit more than 20 pages of documents.

Report by Sandra Maciel, Chief Deputy of Program Operations

MACIEL gave an update on the process for appointing counsel for mentally disordered offenders. The procedures mirror those of the other attorney panels. The Board received 30 applications and 7 active attorneys were appointed at the public lottery, held on June 2, 2014. Training for the attorneys will take place in Ventura County on June 27, 2014. Annual orientation for attorneys representing inmates at parole suitability hearings and medical parole hearings will be on October 6, 2014 and will probably take place in Sacramento. The Southern California orientation will be on October 13, 2014, probably in Diamond Bar.

PRESENTATIONS

The Adolescent Brain, presented by Jennine Hall PhD/C.A.C.III, Lead Clinical Trainer for Colorado Division of Youth Offenders

HALL gave a Power Point presentation and provided a handout. She described the structure of the brain and compared the adult and adolescent brains. HALL explained the milestones in the development of the adolescent brain. Adults and adolescents process information differently and there are differences in their decision-making capabilities. HALL highlighted gender differences in adolescent brain development. She described the brain’s ability to learn new behaviors through neuroplasticity. She stated that stress, abuse, trauma or neglect during adolescence often lead to long-term impacts. Abuse of marijuana and alcohol during adolescence has profound effects on the brain’s development.

SHAFFER and ANDERSON thanked HALL for her presentation.

Elderly Offenders: Likelihood of Violent Reconviction and Risk Characteristics, presented by Dr. Cliff Kusaj, Chief Psychologist

KUSAJ gave a PowerPoint presentation on research concerning recidivism of elderly parolees. He provided a handout. KUSAJ stated the number of studies with this population is small, making conclusions about recidivism rates a little problematic. However, studies in states such as New York and Florida suggest that the reconviction rate for violent felonies is low. KUSAJ estimated that the recidivism rate is in the 1-2% range. He suggested that the reasons for the low recidivism include physical deterioration, psychosocial development, and social/contextual influences.

Meeting recessed at 2:50 p.m. and reconvened at 3:03 p.m.

Elderly Parole Program, presented by Jennifer Shaffer, Executive Officer and Howard Moseley, Chief Counsel

SHAFFER provided a handout of statistics on elderly offenders. The statistics show that inmates over the age of 60 incurred fewer arrests in California in 2012 than any other age group, with the exception of children under the age of 10.

SHAFFER also provided a handout explaining the Board's new parole process for "elderly" inmates, pursuant to the Three-Judge Panel's February 10, 2014, order. To qualify for the Board's elderly parole program, inmates must be age 60 or older, and have served at least 25 years of their sentence. Inmates sentenced to indeterminate terms and determinate terms are eligible, but inmates sentenced to life without the possibility of parole and condemned inmates are not. Many inmates who qualify for elderly parole consideration are already in the Board's parole suitability hearing cycle. Determinately-sentenced inmates who are eligible for elderly parole consideration will not be scheduled for a hearing until after January 1, 2015. Effective October 1, 2014, all inmates eligible for the program will receive a risk assessment specifically addressing how the inmate's advanced age, long-term confinement, and diminished physical condition, if any, may impact the inmate's potential risk for future violence.

SHAFFER also stated that during the Board's administrative review and petition to advance processes, it will give special consideration to eligible inmates' advanced age, long-term confinement, and diminished physical condition, if any. The board will also consider all other relevant information when determining whether or not there is a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the inmate, including institutional behavior and input from victims and victims'

next-of-kin. If an eligible inmate is denied parole, the denial length will be set for 3, 5, 7, 10, or 15 years.

SHAFFER recommended that anyone having questions or comments about the elderly parole program should submit them as soon as possible to the Board. The issues can then be considered at the stakeholder conference call on June 30, 2014.

Expanded Medical Parole Program, presented by Jennifer Shaffer, Executive Officer and Howard Moseley, Chief Counsel

MOSELEY provided an overview of the expanded medical parole program, which also is being implemented pursuant to the February 10, 2014, order by the Three-Judge Panel. Under the present procedures, the following criteria must be satisfied: the inmate must be permanently medically incapacitated; the condition did not exist at the time of the offense; the inmate is not a condemned prisoner or sentenced to life without the possibility of parole; the inmate does not pose an unreasonable risk to public safety. The new provisions only modify the first criterion. The inmate must now suffer from a significant condition that causes physical debilitation.

MOSELEY stated that the RUG-4 measurement tool will be used to determine the extent of an inmate's physical incapacity. After a decision to place an inmate in the medical parole program, CDCR will have 120 days to locate a medical facility that meets the panel's requirements. The inmate's status will be monitored after placement in the program. The inmate may be returned to a CDCR institution if the medical parole criteria are no longer satisfied. MOSELEY stressed that the public safety criterion has not been modified by the new provisions.

OPEN COMMENTS

BPH Commissioners- Agenda Items for Future Meetings: None

Public Comment

KEITH WATTLEY, Uncommon Law, questioned the necessity for an administrative directive on the substitution and waiver of counsel. He believes that the issue is not a significant problem. WATTLEY was concerned about the standards that will be used to determine whether an inmate has exercised due diligence in seeking to substitute counsel. The directive's time limits are also of concern. WATTLEY stated that the administrative directive on the submission of documents at a hearing has proved to be confusing.

WATTLEY regretted that implementation of Senate Bill 260 has been unsatisfactory. The meaning of "great weight" is unclear. Committing a CDC-115 disciplinary offense appears to override consideration of the hallmark features of youth. He submitted that panels should not automatically deny parole because an inmate has been found guilty of a disciplinary offense. He stated that the risk assessment tools used in youth offender cases are inconsistent and confusing.

WATTLEY referred to the case of LARRY JOHNSON, who was recently denied parole. WATTLEY was informed that the public comment period of the Board's meeting is not an appropriate forum for addressing pending cases not on the agenda.

GAIL BROWN, Life Support Alliance, thanked Dr. HALL for her informative presentation. She welcomed the elderly parole program and stated that legislation, comparable with Senate Bill 260, should be enacted regarding elder inmates. BROWN questioned whether it is productive to require elder inmates to repeat self-help programming.

VANESSA NELSON-SLOANE, Life Support Alliance, distributed information on elder inmates. She stated that elder inmates differ from elders in the community. The aging process is accelerated in prison. She emphasized that the recidivism rate for elder parolees is very low. NELSON-SLOANE stated that there are 36 inmates with CDC numbers beginning with "A" and 768 with "B" numbers. They have served very lengthy sentences. She encouraged CDCR to provide more detailed statistics about elder inmates.

AARON WEST, Santa Clara County District Attorney's Office, regretted that the timelines for starting the expanded medical parole and elder parole programs will place increased strain on the limited resources of district attorneys' offices. The problems will be exacerbated when "second strike" hearings begin.

Meeting recessed at 4:52 p.m., to reconvene at 10:00 a.m. on Tuesday, June 17, 2014

**Board of Parole Hearings
Executive Board Meeting
Tuesday, June 17, 2014**

Meeting reconvened and called to order at 10:07 a.m.

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

EN BANC REFERRALS

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

A. HEARTSILL, RONALD AR-8638

Not considered

B. TRISTAN, GABRIEL D-00061

No speakers

Referral by the Chief Counsel pursuant to California Code of Regulations, title 15, section 2042.

C. HAMBY, SUE W-52154

No speakers

D. WHITE, RONALD K-16912

No speakers

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

E. CROWDER, PAUL H-19902

KEITH CHANDLER, inmate's friend, requested that the Board not order a rescission hearing.

Referral by the Governor pursuant to Penal Code section 3041.1 and California Code of Regulations, title 15, section 2044.

F. MURRAY, HENRY K-93376

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended that the Board order a rescission hearing.

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

G. ZECH, JOHN

JOHN ZECH spoke in support of his application for a pardon.

H. VELASQUEZ, DOLORES

DOLORES VASQUEZ spoke in support of his application for a pardon.

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, expressed no view regarding the merits of the application but regretted that district attorneys' offices are given inadequate information about pardon applications.

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

I. BUENROSTRO, RONALD C-97967

No comment permitted.

OPEN COMMENT

Public Comment

VANESSA NELSON-SLOANE, Life Support Alliance, commended the presentation given by Dr. HALL yesterday. NELSON-SLOANE recommended that panels take into account the hallmark features of youth, as enacted by Senate Bill 260, in cases where the inmate committed the life crime when over 18 years of age.

HARRIET SALARNO, Crime Victims United, described the trauma experienced by victims and their families at parole suitability hearings. She thanked district attorneys' offices for their support.

Meeting Adjourned at 10:32 a.m.

Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

July, 2014

