

BOARD OF PAROLE HEARINGS

Executive Board Meeting

October 19-23, 2015

October 19, 2015

Meeting Called to Order at 1:02 p.m.

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

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

CONSENT CALENDAR

Public Comments on Consent Calendar

VANESSA NELSON-SLOANE, Life Support Alliance, drew the commissioners' attention to an error in the proposed minutes of the September 21, 2015 meeting. At the meeting, she had commented that CDCR no longer sends acknowledgement letters to inmates.

Chief Counsel, HOWARD MOSELEY recommended that the record of NELSON-SLOANE's comments on September 21, 2015 be amended to read, "The CDCR no longer sends acknowledgement letters to inmates, but inmates who submit an acceptable letter will receive an acknowledgement that may be included in their central file."

Commissioner ROBERTS moved to approve the consent calendar, with the amended minutes. Commissioner TURNER seconded the motion, which was carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer

SHAFFER stated that, on October 15, 2015, the board filed its report to the Three-Judge Panel.

SHAFFER stated that, from January 1, 2014 to September 30, 2015, there were 836 youth offender hearings. There were 230 parole grants, 523 denials and 83 stipulations to unsuitability. There were no split decisions. There were 412 waivers, postponements, continuances or cancellations. All inmates who were immediately eligible for a hearing when Senate Bill 260 came into force received a hearing on or before July 1, 2015.

From January 1, 2015, to September 30, 2015, 3,075 non-violent second strike inmates were referred to the board. The board approved 1,086 inmates for release and denied 1,001 inmates. Some inmates are pending review because the 30-day period for written input from inmates, victims and prosecutors has not expired. The remaining inmates are pending review because they are not yet within 60 days of their 50% time-served date.

SHAFFER stated that with regard to elderly inmates who are 60 years of age or older and have served at least 25 years, from February 11, 2014, through September 30, 2015, the Board has

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held 948 hearings for these inmates and resulted in 259 grants, 616 denials, 72 stipulations to unsuitability, and there currently is one split vote that requires further review by the full Board. An additional 427 hearings were scheduled during this period but were waived, postponed, continued, or cancelled.

SHAFFER stated that, on October 3, 2015, the Governor signed Senate Bills 261 and 519. The bills will take effect on January 1, 2016. Senate Bill 261 increases the qualifying age for youth offenders from 18 to 23. The board must schedule a hearing for qualifying, determinately-sentenced youth offenders by the end of 2017. Indeterminately-sentenced youth offenders must be scheduled for a hearing by the end of 2021. They must be scheduled for a consultation by the end of 2017. The board is working with CDCR to implement the bills. Thousands of inmates must be screened and several hundred revised risk assessments will need to be prepared.

The Governor also signed Senate Bill 230 on October 3, 2015, which takes effect on January 1, 2016. The bill abolishes future release dates and the board is working on an implementation plan.

The Governor vetoed Assembly Bill 487, which would have required the board to give notice to prosecutors in cases where it has received a petition to advance an inmate's next hearing date or where the board is considering advancing a hearing date through the administrative review process.

SHAFFER stated that the next stakeholders' conference call is on October 26, 2015.

SHAFFER stated that she and Chief Deputy of Program Operations, SANDRA MACIEL have visited 30 of the 35 adult institutions, as part of the board's continuing outreach program. The issues discussed with institutional staff have included legal changes to parole suitability, petitions to advance hearing dates, the administrative review for advancing hearing dates, the non-violent second strike inmate parole review process and mentally disordered offender screening. SHAFFER and MACIEL intend to visit the remaining 5 institutions by the end of the year.

Commissioner FRITZ attended the meeting.

Report from Chief Counsel, Howard Moseley

MOSELEY stated that, following the September, 2015 executive meeting, the board received many comments and suggestions concerning proposed Administrative Directive 2015-03, Evidentiary Questions at Parole Hearings. Some of the suggestions have been incorporated into a new draft and MOSELEY invited further comments and suggestions. MOSELEY hoped to present the proposed directive to the board at the November 2015 meeting for its consideration and approval.

Senior Staff Attorney, VERONICA MENDOZA summarized the changes to the directive. She stated that it is proposed that inmates' attorneys may direct questions to the presiding officer or to the inmate. The presiding officer shall disallow irrelevant questions.

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Commissioner ANDERSON invited comment on the motion included in the consent calendar regarding LARRY JOHNSON T-33730.

JAMES EMERY, victim's brother, KAREN EMERY, victim's mother and BOOKER T. EMERY Jr., victim's father, expressed support for the victim but acknowledged the necessity for a complete record of the hearing.

Executive Officer, JENNIFER SHAFFER apologized for the inconvenience resulting from the failure of the recording equipment.

The commissioners reaffirmed their approval of the consent calendar.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL stated that the board mailed 27,410 hearing notices in the year preceding October 5, 2015.

In September 2015 there were two attorney orientations held in Sacramento and Diamond Bar. There were 30 attendees in Sacramento and 61 in Diamond Bar.

Mentally disordered offender orientations were held in Sacramento, at Atascadero State Hospital and at Patton State Hospital. A total of 117 psychologists attended the sessions. When psychologists meet the board's minimum qualifications, their names are submitted to the Department of State Hospitals, pursuant to Penal Code section 2978. To date, DSH has approved 68 psychologists.

CHRISTINE BUFFLEBEN, Board Information Technology System project manager, described system updates that take effect on October 23, 2015. There are changes in the risk assessment section and, beginning January 1, 2016, subsequent risk assessments will no longer be conducted and comprehensive risk assessments will be valid for three years. There are hearing notice changes and CDCR Cases Records Division will enter information for youth offenders directly into BITS. BITS will automatically calculate an inmate's youth offender eligibility date based on relevant data from the Strategic Offender Management System.

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

SKIPPER-DOTTA stated that subpoenas for mentally disordered offender hearings will be sent out for hearings scheduled on or after November 30, 2015. They will be sent out approximately 60 days before each hearing. SKIPPER-DORTA thanked BUFFLEBEN for her work in setting up the process. It will be possible to give evidence by telephone or video conference.

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

KUSAJ stated that there are 222 assessments to be completed in November 2015. Approximately half of the assessments are for hearings in December 2015 and the other half for hearings in January 2016. The division aims to complete assessments in November 2015 for hearings in February 2016, to ensure distribution at least 60 days before the hearing. There are 138

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assessments on the January 2016 calendar that have not been assigned. The division is meeting current assessment demands and is working to reduce the assessment backlog. It is projected that the division will conduct around 2,700 assessments in 2015. By comparison, there were 2,388 assessments in 2014. FAD psychologists will be attending a three-day training event in November.

KUSAJ reviewed risk assessment data from 2014. He concluded that long-term inmates constitute a lower risk group than younger and shorter-term inmates. There are significant differences between low, moderate, and high risk inmates within the long-term group. The FAD's methodology and categorical approach capture this variation.

Long Term Offender Program (LTOP) and Cognitive Behavioral Interventions for Sex Offenders (SBI-SO), presented by Rodger Meier, Deputy Director of the Division of Rehabilitative Programs

MEIER gave a PowerPoint presentation and provided a handout describing the objectives and components of the programs.

California Prison Industry Authority (PIA), presented by Chuck Pattillo, CALPIA General Manager

PATILLO showed a video about the work of PIA, which has 26 business lines. Inmates must obtain a GED within two years of starting work at PIA.

SHAFFER noted that long-term determinately-sentenced inmates are now within the board's jurisdiction as youth or elder offenders. She asked whether PIA has taken this into account.

PATILLO stated that the objective is to accept inmates who are within five years of release.

CDCR Vocational Programs, presented by Brantley Choate, Superintendent of Correctional Education

CHOATE gave a PowerPoint presentation about career technological programs and provided a handout.

Overview of Life Support Alliance, presented by Vanessa Nelson-Sloane, Director

VANESSA NELSON-SLOANE, Life Support Alliance, described the history, work and objectives of the organization. It is managed by volunteers and she introduced several of its members. There is an advisory board, made up of former life inmates. Its activities include publishing a newsletter, attending hearings as observers, providing educational seminars, transcript review and legislation tracking. A video, "From the Date to the Gate" is being produced.

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SHAFFER welcomed the factual information provided by LSA's newsletter.

Veterans Healing Veterans from the Inside Out, presented by Mary Donovan, Executive Director

DONOVAN described the work of the program, using a PowerPoint presentation and a handout.

SHAFFER asked whether there is any interaction with the volunteer veteran outreach program that was established by recent legislation.

DONOVAN stated that she was not aware of the volunteer program but would welcome further information.

PUBLIC COMMENTS

GAIL BROWNE, Life Support Alliance, expressed concern that inmates are being pressured to participate in LTOP. She questioned the effectiveness of the program.

DAVID SLOANE, former life inmate, described his experiences on parole.

RAY FORD, DARLENE BURKE, CHRIS MORENO and THOMAS REESE III, former life inmates, described their involvement with Ten Toes In, an inmate support organization.

BERTHA FORD, wife of a former life inmate, described her experiences and thanked the board for its work.

Meeting recessed at 3:47 p.m. until Tuesday, October 20, 2015 at 10:00 a.m.

October 20, 2015

Meeting called to order at 10:30 a.m.

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

Commissioner ANDERSON stated that a majority of the commissioners currently appointed is present. He stated that, pursuant to Penal Code section 3041(e) no comments would be taken on the tie vote cases of MICHAEL ADAMS, D-74500 and DENNIS JEWELL, D-46354.

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EN BANC REFERRALS

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

B. CROOK, LYLE E-69772

MARC NORTON, inmate's attorney read a letter from the inmate requesting that the board not order a rescission hearing.

PHILIP SENTENO, SHEILA CARD, inmate's friends, and TANYISHA BELL, inmate's daughter, supported his release on parole.

DAVID DAHLE, Los Angeles County District Attorney's Office, submitted that a rescission hearing should be ordered.

C. MCELROY, MARVIN C-73869

No speakers.

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. GLASS, DONALD K-83800

MARC NORTON, inmate's attorney, opposed ordering a rescission hearing. CYNTHIA HARMS, inmate's fiancée, DEBBIE SIPE, inmate's sister, MARTIN PETERSEN, inmate's friend, DAWN BECKWORTH, inmate's sister and JAMES GLASS, inmate's brother, supported his release on parole.

AARON WEST, Santa Clara County District Attorney's Office, recommended ordering a rescission hearing.

E. GRABOWSKI, EDWARD T-15081

JIM HOLTZCLAW, victim's brother, opposed the inmate's release on parole. DAVID BROWN, Sacramento County District Attorney's Office, recommended ordering a rescission hearing.

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F. RUFF, WILLIE C-83049

No speakers.

G. SLAYTER J-27536

BRIAN WANERMAN, inmate's attorney, opposed ordering a rescission hearing. MARCIA SATURNINO, inmate's mother, JEANNE DOLLINGER, inmate's friend and CARI AQUINO, inmate's sister, supported his release on parole.

JEFF LAUGERO, Stanislaus County District Attorney's Office, recommended ordering a rescission hearing.

H. SMITH, RODNEY P-13134

DAVID RAMIREZ, inmate's attorney, opposed ordering a rescission hearing. JENNIFER MCCRANER, inmate's stepdaughter, JOHN SOWARD, inmate's cousin and DONNA KESSLER, inmate's sister, supported his release on parole.

DAVID DAHLE, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

I. TURNER, RAYMOND H-34448

SANDRA SMITH, inmate's aunt, CAROLYN HARRISON, inmate's mother and JHU SADIKI, inmate's friend, supported his release on parole.

DAVID DAHLE, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

J. VICKS, MICHAEL C-78619

No speakers.

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

K. BELMONTE, TERRI W-63680

No speakers.

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

L. ADAMS, MICHAEL D-74500

Public comment not permitted.

M. JEWELL, DENNIS D-46354

Public comment not permitted.

PUBLIC COMMENT

LAURA ROMERO thanked board staff for helping to resolve the difficulties in securing her son's release from prison.

VANESSA NELSON-SLOANE, Life Support Alliance, regretted the fact that LTOP will not expand beyond the current three institutions. She stated that pressure is put upon inmates to take part in the program. NELSON-SLOANE expressed concern that inmates are required to give up their jobs to take part in LTOP and transfer to another institution.

Meeting recessed at 12:30 p.m. until 2:00 p.m.

Meeting reconvened at 2:57 p.m.

Accommodating Inmates with Disabilities by Senior Staff Attorney, Katie Riley

RILEY gave an overview of the best practices for representing inmates with disabilities and provided a handout.

Division of Adult Parole Operations (DAPO) Sex Offender Management Unit by Erin Peel and Jamal Rowe

PEEL and ROWE described the objectives, operation and risk assessment methods of the program and provided a handout.

SHAFFER stated that treatment providers and parole agents might find it useful to have access to the board's risk assessments. They may be found in ERMS under the BPH tab.

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PEEL agreed that it would be useful and stated that she would check that providers have access to the information.

Commissioner ANDERSON invited SISTER TERESA GROTH, Director, Francisco Homes, Los Angeles, to address the meeting.

SISTER GROTH stated that the program now accommodates exclusively former lifer parolees. The program houses many sex offenders who are excluded from other programs. She thanked the board for its work.

Revised Rules Violation Report, Mental Health Assessment Process, by Corey Scheidegger Ph. D., Charles Odipo Ed. D. and Captain Thomas Tyler

SCHEIDEGGER, ODIPO and TYLER gave a PowerPoint presentation on revisions to mental health evaluations and to the process of producing the evaluations. They described the roles of custody and mental health staff.

PUBLIC COMMENTS

None.

Meeting recessed at 5:02 p.m., to reconvene on Wednesday, October 21 at 9:00 a.m.

October 21, 2015

Meeting reconvened at 9:17 a.m.

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

Commissioner ANDERSON stated that a majority of the commissioners currently appointed is present.

PRESENTATIONS

Managing Co-Occurring Mental and Substance Abuse Disorders
Judge Marcia Hirsch, National Judicial College

PUBLIC COMMENT

None

Meeting recessed at 4:05 p.m., to reconvene on Thursday, October 22, 2015 at 9:00 a.m.

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October 22, 2015

Meeting reconvened at 9:00 a.m.

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

Commissioner ANDERSON stated that a majority of the commissioners currently appointed is present.

PRESENTATIONS

Effective Communication and Listening Skills

Jill Tolles and Jennifer Hennessey-Booth from the National Judicial College

TOLLES and HENNESSEY-BOOTH gave a PowerPoint presentation and provided a handout.

PUBLIC COMMENT

VANESSA NELSON-SLOANE, Life Support Alliance, thanked the board for an informative training week.

Meeting recessed, to reconvene in closed session on Friday, October 23, 2015 at 9:00 a.m.

Presentation to Board, October 19, 2015
Cliff Kusaj, Psy.D., Chief Psychologist

In October FAD psychologists were assigned 222 assessments to be completed in November – the same month they will also be attending training for three days. Roughly half of these assessments are for hearings scheduled in December, and the other half are for hearings scheduled in January, 2016. Ideally, we'd like to complete assessments in November for hearings scheduled through February to ensure distribution at least sixty days before hearings. As it stands now, 138 assessments on the January calendar remain unassigned. Although we are keeping pace with the current assessment demands of the hearing schedule and making steady progress, to meet our goals we still have catching up to do.

We are on pace to administer close to 2,700 assessments in 2015. In 2014, by comparison, the FAD administered 2,388 assessments. I'd like to take some time today to review data we've collected from risk assessments administered in 2014. As you are aware, the FAD incorporated changes to its methodology and report format in January 2014. Since then we've closely monitored implementation of these changes.

FAD's approach to risk communication is grounded in two assumptions: First, long-term inmates, based upon their demographics and assessed risk characteristics, represent a lower risk cohort relative to much younger and shorter-term state prison parolees. I'll be sharing more information about recidivism rates of long term offenders in the coming months. And, secondly, not all long-term inmates are alike. There is significant variation within the cohort of long-term inmates eligible for parole consideration.

One way psychologists communicate risk variation is through use of risk categories. There is no professional consensus as to how many categories should be used or how they should be labeled. FAD's use of three categories, low, moderate, and high, is consistent with what is often described in the literature. Regardless of how many categories are used or how they are labeled, for a categorical system to be reliable and valid each category must discretely and objectively differentiate individuals. Across low, moderate, and high risk categories we expect to observe relevant demographic differences and variation in assessed risk presence and relevance and other indices of risk. This is exactly what we found when we analyzed 2014 risk assessment data. Long term inmates who are categorized low risk differ from those categorized moderate risk, and those categorized moderate risk differ from those categorized high risk.

Over 80% of long term inmates assessed by FAD psychologists in 2014 were assessed to represent non-elevated or less risk than other state prison parolees. Again, this is a lower risk cohort. 35% were categorized low risk, 45.5% moderate, and 19.5% high. This is consistent with what I have previously reported and published in 2014.

Across the three categories, we observe meaningful differences.

As institutional behavioral stability improves (as reflected in lower institutional placement scores) assessed risk declines.

- The average institutional placement score of Low Risk examinees was 21.8. For Moderate Risk it was 40.9. For High Risk it was 117.6.

As offenders age (especially as they approach 50), assessed risk declines.

- The average offender age of Low Risk examinees was 51.6. For Moderate Risk it was 49.2. For High Risk it was 46.2.

Low, moderate, and high risk examinees differ in terms of risk presence.

- Low Risk examinees (on average) were found to have 9.5 of 20 HCR-20-V3 risk factors present to some degree. Moderate Risk examinees were found to have 13.8 risk factors present and High Risk examinees were found to have 16.0 risk factors present.
- Low, Moderate, and High Risk examinees differed across individual HCR-20-V3 items.
 - Example 1: Recent Problems with Instability (C4) was an identified risk to some degree for 7% of Low Risk, 37% of Moderate Risk, and 74% of High Risk examinees.
 - Example 2: Recent Problems with Treatment or Supervision Response (C5) was an identified risk to some degree for 14% of Low Risk, 64% of Moderate Risk, and 91% of High Risk examinees.

Low, moderate, and high risk examinees differ in terms of risk relevance. When risk factors were identified to be present to some degree, they were assessed to have greater current relevance for Moderate and (especially) High Risk examinees.

- Example 1: Most examinees (78%) were assessed to have Recent Problems with Insight (C1) to some degree. For Low Risk examinees it was present in 52% but highly relevant in just 10% of cases. For Moderate Risk examinees it was present in 90% and highly relevant in 46% of cases. For High Risk Examinees, it was present in 97% and highly relevant in 82% of cases.
- Example 2: Most examinees (86%) were assessed to have Future Problems with Stress and Coping (R5) to some degree. For Low Risk Examinees, this risk factor was assessed to be highly relevant in 16% of cases. For Moderate Risk Examinees, it was highly relevant in 48% of cases. For High Risk Examinees, it was highly relevant in 79% of cases.

Low, moderate, and high risk examinees differ in terms of assessed personality characteristics. Overall, less than 4% of examinees obtained a score on the PCL-R that exceeded the raw score cutoff commonly used to identify psychopathic personality characteristics. This is much lower than what is normally reported in prison samples.

- Low and Moderate Risk examinees (on average) obtained PCL-R scores that are well below the mean relative to North American Male Offenders. High risk examinees obtained scores (on average) that are very close to the mean.

Collectively, this data strongly supports these conclusions: 1) Long-term inmates constitute a lower risk cohort. 2) Within the cohort there exists risk variation and 3) FAD's methodology and categorical approach to risk communication nicely captures this variation. Why is this important? If one applies reliable information regarding the risk characteristics and estimated recidivism rates of a cohort, and then assesses where an individual stands relative to his or her cohort and other prisoner cohorts, one is better able to develop individualized case conceptualizations and to make empirically supported inferences regarding an individual's risk and potential for safe release.

Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

November, 2015



