

BOARD OF PAROLE HEARINGS
Executive Board Meeting
April 17 to 21, 2016

April 17, 2017

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

Roll Call: Commissioners Anderson, Chappell, Cassady, Fritz, Garner, Labahn, Minor, Montes, Peck, Roberts, Ruff, Taira, and Turner present. Commissioner Grounds absent.

Commissioner ANDERSON stated that the majority of currently-appointed commissioners are present. He stated that Executive Officer SHAFFER would be arriving later.

CONSENT CALENDAR

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

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer, presented by Chief Counsel, Jennifer Neill

NEILL stated that the stakeholders' meeting was held on March 27, 2017 and there were 77 participants.

NEILL stated that the Proposition 57 emergency regulations were filed on March 24, 2017. The Office of Administrative Law approved them on April 13, 2017. She summarized the credit-earning provisions and their implementation dates. The ability to earn credits is available to all inmates, except those condemned to death or serving life without the possibility of parole. The non-violent inmate parole process will be a document review. The process excludes sex offenders, inmates incurring certain rules violations or sentenced to recent security housing unit terms. The implementation date for the process is July 1, 2017. The California Department of Corrections and Rehabilitation website contains information on the implementation of Proposition 57.

Report from Chief Counsel, Jennifer Neill

NEILL stated that, in 2016, the board was served with 154 petitions for writ of habeas corpus, an increase from the 2015 total of 105. In 2016, there were 13 court-ordered hearings.

Report from Chief Deputy of Program Operations, Sandra Maciel

MACIEL stated that the board is working to obtain statewide gate clearances for inmate counsel and district attorneys who attend parole hearings. Current statewide gate clearances will expire on May 20, 2017.

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

KUSAJ stated that in April, 2017 FAD psychologists were assigned 312 comprehensive risk assessments to be completed in May. There are no unassigned assessments for the August calendar. It is anticipated that all assessments will be completed at least 60 days before the

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

hearing. Approximately 45% will be completed more than 90 days before hearings scheduled after August 15, 2017.

KUSAJ addressed recent criticism of FAD psychologists. KUSAJ emphasized that they are experts who are dedicated to helping the board make effective parole decisions. He outlined the qualifications and experience of a number of the psychologists.

DISCUSSION ITEMS

LOPEZ, JOE J-57975

Commissioner ANDERSON stated that the board would consider whether to add the matter of inmate LOPEZ's parole grant to tomorrow's agenda.

NEILL explained that the inmate was granted parole on December 29, 2016. The board's decision review process was completed and the grant submitted to the Governor for his review. He took no action and the inmate is due to be released soon. The board was informed that he incurred a rules violation on April 10, 2017 and was found guilty yesterday. NEILL invited the board to consider placing the matter on tomorrow's agenda to determine whether to set the matter for a rescission hearing.

Public Comments

There were no public comments.

Commissioner PECK moved to add the matter of LOPEZ, JOE, J-57975 to tomorrow's agenda. Commissioner MINOR seconded the motion, which carried unanimously.

PRESENTATIONS

The Evolution of CDCR's Policies and Procedures for the Care of Transgender Inmates, presented by Chrisman Swanberg, Attorney V, Receiver's Office of Legal Affairs, California Correctional Health Care Services and Tom Gilevich, Assistant Chief Counsel, CDCR Office of Legal Affairs

SWANBERG and GILEVICH gave a Power Point presentation.

Meeting recessed from 2:10 p.m. to 2:20 p.m.

Combat to Community: A Veteran's Cultural Competency Course, presented by Shannon Kissinger

KISSINGER gave a PowerPoint presentation and showed several videos.

OPEN COMMENTS

KONY KIM, Uncommon Law, expressed concern about the numerous factual errors in a client's comprehensive risk assessment. The hearing panel found the inmate not to be credible because his testimony did not accord with the risk assessment. KIM submitted that panels should rely on other credible documents when the assessment's version of the crime is challenged. KIM also expressed concern about panels' unworkable recommendations after denying parole. A panel had

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

recommended that her client attend the Long Term Offenders Program. This would have required changing institutions and leaving the sensitive needs yard, thereby jeopardizing his safety.

VANESSA NELSON-SLOANE, Life Support Alliance, referred to the matter of *Trejo*, where the court held that the inmate need not serve a consecutive *Thompson* term after being granted parole for the life crime. The inmate was 17 years old when he committed the life crime and 20 years old when he committed the *Thompson* offence. NELSON-SLOANE also stated that panels should give great weight to the hallmark features of youth when considering the significance of offenses and rules violations committed in the early years of an inmate's life sentence.

WOODS ERVIN spoke about the difficulties facing transgender inmates, which can impair their ability to make an effective presentation at parole consideration hearings.

JENNIFER ORTHWEIN, attorney, stated that many transgender inmates suffer from post-traumatic stress disorder. This is often undiagnosed or misinterpreted as malingering. Transgender inmates face problems with programming and working while incarcerated.

MARGARET LAFFIN, Justice Now, stated that some hearing panels have shown insensitivity to the needs of transgender inmates. She requested that panels show greater awareness of the difficulties faced by the inmates.

KELLYLOU DENSMORE, Transgender, Gender-Variant, Intersex Justice Project, described the work of the organization in assisting transgender inmates. She welcomed proposed legislation that makes the process of changing names easier.

Meeting recessed at 4:30 p.m.

April 18, 2017

Meeting called to order at 10:01 a.m.

Roll Call: Commissioners Anderson, Chappell, Cassady, Fritz, Garner, Minor, Montes, Peck, Roberts, Ruff, Taira, and Turner present. Commissioners Grounds and Labahn absent.

Commissioner ANDERSON stated that the majority of currently-appointed commissioners are present.

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

EN BANC REFERRALS

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

A. JEFFERS, ADAM Case nos. CR70195 and AQ35482

FAHARI JEFFERS, applicant's sister, Dr. MICHAEL MARION, applicant's friend and ADAM JEFFERS supported the pardon application.

SAMANTHA BEGOVICH, San Diego County District Attorney's Office, opposed the application.

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

B. MULTANI, FAHIM AZ-4628

DONNA LEBOWITZ, Los Angeles County District Attorney's Office, opposed a recommendation for recall of sentence. CHRISTINE WARD, I-Can, read an opposition letter from JENNIFER P., who testified against the inmate at his trial.

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

C. SERRANO, ERNESTO H-43694

No speakers.

D. LOPEZ, JOE J-57975

RUSTIE SHELDON, inmate's friend, supported his release on parole.

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.

E. JULIAN, AUGUST P-34928

DONNA LEBOWITZ, Los Angeles County District Attorney's Office, supported ordering a rescission hearing.

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

Referral by a panel member pursuant to Penal Code section 3041 (a) and California Code of Regulations, title 15 section 2044 (a) to request review of a parole decision by the full board.

F. MUSZYNSKI, MARK P-72738

AARON WEST, Santa Clara County District Attorney's Office, stated that the inmate's parole denial should not be vacated.

G. RADKE, MARK E-70238

ERIN KILBANE, victim's friend, SUSAN MARSHALL, victim's mother, KELLY RUDIGER, victim's sister, opposed the inmate's release on parole. CHRISTINE WARD read an opposition letter from Crime Victims Action Alliance.

SAMANTHA BEGOVICH, San Diego County District Attorney's Office, submitted that the inmate's parole grant should be vacated and a rehearing ordered.

OPEN COMMENTS

MARC NORTON, attorney, stated that the Forensic Assessment Division has made no meaningful contribution to the increase in the parole grant rate. He maintained that comprehensive risk assessments are of little value and that the FAD is not cost-effective. NORTON stated that the FAD should be abolished and that inmate evaluations be conducted by institutional psychologists.

VANESSA NELSON-SLOANE, Life Support Alliance, stated that the FAD is inadequately trained and that comprehensive risk assessments frequently contain factual errors. She expressed concern that FAD psychologists are not accountable to the California Board of Psychology. NELSON-SLOANE requested that FAD training be opened to the public.

NEILL stated that the FAD psychologists are subject to the California Board of Psychology's disciplinary procedures.

Meeting recessed at 11:10 a.m.

Meeting called to order at 2:00 p.m.

Guiding Rage into Power, presented by Jacques Verduin, Founder and Director of Guiding Rage into Power, Insight-Out

VERDUIN gave a PowerPoint presentation.

Lifer Responsivity, presented by Jon Stern, Chief Deputy Regional Administrator of CDCR Division of Adult Parole Operations

STERN gave a PowerPoint presentation and showed a video.

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

OPEN COMMENTS

VANESSA NELSON-SLOANE, Life Support Alliance, commended the Peer Reentry Navigator program.

April 19, 2017

Meeting reconvened at 9:03 a.m.

Roll Call: Commissioners Anderson, Chappell, Cassady, Fritz, Garner, Labahn, Minor, Montes, Peck, Roberts, Ruff, Taira, and Turner present. Commissioner Grounds absent.

PRESENTATIONS

Science of Decision Fatigue presented by Dr. Andrew Vonasch, Postdoctoral Research Fellow, University of North Carolina at Chapel Hill

VONASCH gave a PowerPoint presentation.

Victim Approval and Gate Clearance Process, presented by Mike Young, Staff Services Manager I at Office of Victim and Survivor Rights and Services

YOUNG gave a PowerPoint presentation.

Victim Participation in the Parole Hearing Process, presented by Michelle Martin Community Outreach Coordinator, Nancy Padilla Victim Advocate/Parole Hearing Victim Support Group, Christine Ward, I-Can and Crime Victims Action Alliance

MARTIN, PADILLA and WARD gave a PowerPoint presentation.

OPEN COMMENTS

VANESSA NELSON-SLOANE, Life Support Alliance, welcomed the presentation on decision fatigue and stated that Life Support Alliance will research the issue. She encouraged greater training for victims' services representatives. She noted an increase in victims' contacting inmates directly, a practice that often causes confusion. NELSON-SLOANE stated that it is understandable that victims' families should wish to present a photograph of the victim to the hearing panel. However, she stated that it is inappropriate that a photograph be displayed throughout the hearing.

Meeting recessed at 11:40 a.m.

Meeting reconvened at 1:03 p.m.

PRESENTATIONS

Significant Events of 2016, presented by Executive Officer, Jennifer Shaffer

SHAFFER summarized the significant events of the board's work in 2016.

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

Whole Health, presented by Yusef Wiley and Dr. Noah Aboelata

WILEY and ABOELATA gave a PowerPoint presentation.

Meeting recessed at 2:20 p.m.

Meeting reconvened at 2:32 p.m.

Milestone Completion Program, presented by Kelly Santoro, Warden, North Kern State Prison and Kelly Medina, Associate Warden, Female Offender Programs and Services/Special Housing Mission

SANTORO and MEDINA gave a PowerPoint presentation.

Proposition 57 Overview, presented by Scott Kernan, CDCR Secretary

KERNAN described CDCR's response to the provisions of Proposition 57.

OPEN COMMENTS

VANESSA NELSON-SLOANE, Life Support Alliance, welcomed the report of the board's 2016 significant events. She questioned whether Penal Code section 290 registrants are excluded from the provisions of Proposition 57 if their current commitment offense was not the cause of the registration requirement. NELSON-SLOANE expressed concern at the board's reluctance to discharge lifer parolees from parole.

SHAFFER stated that the Proposition 57 regulations clearly exclude all Penal Code section 290 registrants.

Meeting recessed at 3:14 p.m.

April 20, 2017

Called to order at 1:02 p.m.

Roll Call: Commissioners Anderson, Chappell, Cassady, Fritz, Garner, Labahn, Minor, Montes, Peck, Roberts, Ruff, Taira, and Turner present. Commissioner Grounds absent.

PRESENTATIONS

Rehabilitative Achievement Credit Program, presented by Jeff Macomber, Deputy Director, Facility Support, CDCR Division of Adult Operations and Rosalinda Rosalez, Special Assistant to CDCR Undersecretary of Operations

MACOMBER and ROSALEZ gave a PowerPoint presentation.

Meeting recessed at 1:34 p.m.

Meeting reconvened at 1:54 p.m.

BOARD OF PAROLE HEARINGS

Executive Board Meeting

April 17 to 21, 2016

**Educational Merit Completion Program, presented by Brant Choate, Superintendent,
Office of Correctional Education, Division of Rehabilitative Programs**

CHOATE gave a PowerPoint presentation.

OPEN COMMENTS

VANESSA NELSON-SLOANE, Life Support Alliance, welcomed the opportunity to attend the board's training week but questioned the necessity for the number of closed sessions.

Meeting adjourned at 2:09 p.m.

Board of Parole Hearings
Scheduled and Backlog Hearing Report

Penal Code section 3041(d)

May 2017

