

Memorandum

Date : June 16, 2014

Subject: **ELDERLY PAROLE PROGRAM**

The purpose of this memorandum is to provide an overview of the new Elderly Parole Program. On February 10, 2014, the Three Judge Panel in the *Plata/Coleman* class action lawsuit ordered CDCR to finalize and implement a new parole process whereby elderly inmates will be referred to the Board of Parole Hearings (board) to determine suitability for parole. The procedures for the new Elderly Parole Program will affect parole suitability hearing scheduled on or after October 1, 2014.

Eligibility

Inmates who are 60 years or older and who have been incarcerated for 25 years or more are eligible for the elderly Parole Program. Eligible inmates may be serving an indeterminate or a determinate sentence.

Scheduling of Hearings

Eligible inmates who are not currently in the board's hearing cycle (i.e., those who are serving a determinate term or serving an indeterminate term and have not yet had their initial parole suitability hearing), will be referred by CDCR to the board and scheduled for an initial suitability hearing.

Eligible inmates who are currently in the board's hearing cycle (i.e., those who have already had their initial suitability hearing or will have it before October 1, 2014) will be considered for a new hearing consistent with the California Supreme Court's decision in *In re Vicks*, meaning the board will initially focus its resources on those inmates who are most likely to be found suitable for parole. This will be accomplished through administrative review of the inmate's record by the board for possible advancement of the inmate's next hearing date, if the board finds a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the inmate. Eligible inmates may also continue to petition to advance their next hearing pursuant to the provisions of Penal Code section 3041.5(d).

During the administrative review and the petition to advance processes, the board 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 pursuant to Penal Code section 3041.5(b)(4) ("Marsy's Law") for 3, 5, 7, 10, or 15 years.

Risk Assessments

Inmates who are 60 years of age or older and who have served a minimum of 25 years and who are scheduled for a hearing on or after October 1, 2014, will receive a new or revised risk assessment, which will specifically address 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.

Panels and Procedure

Hearings will be conducted by two or three person panels; at least one panel member will be a Commissioner. All other parole suitability hearing procedures not impacted by the provisions outlined herein will be applied to elderly parole hearings.

Decision Review

Parole suitability hearing decisions for elderly parole inmates will be reviewed in the same manner as all other parole suitability hearing decisions.

Term Calculations

Inmates who are found suitable for elderly parole and who are serving an indeterminate term will be released to parole when their grant becomes final (after all applicable reviews). Inmates who are found suitable for elderly parole and who are serving a determinate term will be released to parole when their grant becomes final.