



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2012-02

SUBJECT: VICTIMS' RIGHT TO BE HEARD PRIOR TO BOARD'S DECISION ON LIFE INMATE'S OFFER TO STIPULATE TO UNSUITABILITY

INTRODUCTION

California Code of Regulations (CCR), Title 15, section 2253, subdivision (c), permits all life inmates to offer to stipulate to their unsuitability any time prior to a life parole consideration hearing. Prior to the board's decision on a life inmate's offer to stipulate, the board shall consider the victims' views and interests on the matter. This Administrative Directive clarifies the victim's right to be heard prior to the decision on a life inmate's offer to stipulate to unsuitability.

LEGAL AUTHORITY

Section 28, subdivision (b)(8), of Article 1 of the California Constitution vests victims of crimes with a number of rights, including the right "*to be heard*, upon request, at any proceeding, including any . . . post-conviction release decision, or any proceeding in which a right of the victim is at issue." More specifically, **Penal Code section 3043, subdivision (b)**, provides that "[t]he victim, next of kin, members of the victim's family, and two representatives . . . have the right to appear, personally or by counsel, at the hearing and *to adequately and reasonably express his, her, or their views concerning . . . the suitability of the prisoner for parole.*" Furthermore, **Penal Code section 3041.5, subdivision (b)(3)**, states, "The board shall schedule the next hearing, *after considering the views and interests of the victim*, as follows: (A) Fifteen years after any hearing at which parole is denied (B) Ten years after any hearing at which parole is denied (C) Three years, five years, or seven years after any hearing at which parole is denied" In addition, **CCR, Title 15, section 2253, subdivision (c)(1)**, states that "[when] considering an offer to stipulate to unsuitability *the board shall review* any written statements received from . . . the victim, victim's next of kin, members of the victim's immediate family and two victim's representatives." (Emphasis added.)

DIRECTIVE

Prior to pronouncement of the board's decision on a life inmate's offer to stipulate to unsuitability, the presiding commissioner shall ensure that the victim's right to be heard (as well as that of the victim's next of kin, members of the victim's family, and victim's representatives) is honored by (1) asking if they wish to express their views concerning the offer to stipulate, (2) reviewing any written statements they have submitted on the matter, and (3) considering their views and interests before reaching a decision.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the legal office at (916) 324-7604.

APPROVED BY:



JENNIFER P. SHAFFER
Executive Officer, BPH

DATE: 11/29/12