



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2015-03

SUBJECT: EVIDENTIARY QUESTIONS AT PAROLE HEARINGS

INTRODUCTION

This Administrative Directive outlines the purpose and scope of evidentiary questions posed by inmates, inmate attorneys and prosecutors at parole hearings.

LEGAL AUTHORITY

Penal Code section 3041.5, subdivision (a)(2), provides: "The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his or her own behalf. Neither the prisoner nor the attorney for the prisoner shall be entitled to ask questions of any [victim] appearing at the hearing pursuant to subdivision (b) of [s]ection 3043."

California Code of Regulations, title 15, section 2030, subdivision (d), provides, in part: "The hearing officer shall ensure throughout the hearing that unnecessary, irrelevant or cumulative oral testimony and statements are excluded. ... The prosecutor may be permitted to ask clarifying questions of the hearing panel, but may not render legal advice."

California Code of Regulations, title 15, section 2247, provides, in part: "A prisoner has the right to be present at the hearing, to speak on his own behalf, and to ask and answer questions. ... No panel shall consider information not available to the prisoner unless the information is designated confidential under [section] 2235."


California Code of Regulations, title 15, sections 2281, subdivision (b), and 2402, subdivision (b), provide, in part: "All relevant, reliable information available to the panel shall be considered in determining suitability for parole."

DIRECTIVE

Consistent with the legal authorities cited above, inmates, inmate attorneys and prosecutors may ask evidentiary questions during a parole hearing for the purpose of eliciting relevant information concerning the inmate's eligibility for parole as follows:

1. All such questions posed by a prosecutor shall be directed to the presiding hearing officer, who shall determine whether the proposed question is relevant and, if so, who shall answer it (the presiding hearing officer, the deputy commissioner, the inmate, or the inmate's attorney) and how it shall be asked (as originally posed or as rephrased by the presiding hearing officer);
2. All such questions posed by an inmate shall likewise be directed to the presiding hearing officer, who shall determine whether the proposed question is relevant and, if so, who shall answer it (the presiding hearing officer, the deputy commissioner, or the prosecutor) and how it shall be asked (as originally posed or as rephrased by the presiding hearing officer);
3. However, such questions posed by an inmate's attorney may be directed to the presiding hearing officer or the inmate – in either case the proposed question shall not be asked in the form of a leading question and shall not be allowed if the presiding hearing officer determines the proposed question is not relevant.

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

APPROVED BY:		DATE:	<u>12/24/2015</u>
	JENNIFER P. SHAFFER Executive Officer, BPH		