Oregon Board of Parole

& POST-PRISON SUPERVISION

Board Business Meeting Minutes
Thursday, July 31, 2014

Call to Order and Note of Attendance: The meeting was called to order at 11:05 a.m., and note of attendance made: Board Chair, Kristin Winges-Yanez; Board member, Sid Thompson; Board member, Michael Wu; Executive Director, Brenda Carney; Board staff, Shawna Harnden; Department of Corrections Release Services Manager, Hank Harris.

Meeting Minutes: Minutes from June 23, 2014, edits previously suggested. Winges-Yanez moved to adopt, Wu seconded.

Chairperson Comments:

- Winges-Yanez, Harnden and Board Warrant Specialist, Marron Easly-Holmes met with Deputy Compact Administrator, Mark Patterson, Compact Coordinator Ruby McClorey and Extradition Officer, Nicole Kellogg. The Compact rules have changed. It is no longer mandatory to retake a violent offender, based solely on them being deemed a violent offender with one violation. We discussed current processes with Compact and Extradition cases and specific topic of auto revoking. We cannot auto revoke when they are an active Compact case. Once Compact closes interest, the Board gets back our full authority and can then review the case to determine the appropriate action.
- On Monday, attended the quarterly Crime Victim Task Force meeting. Brad Berry, Yamhill County District Attorney, is piloting a program with a therapy dog named Marybeth. Marybeth is trained as a therapy dog to assist with crime victims She has her own twitter feed and passed out her business cards to everyone at the meeting. There will be new legislation proposed at the next Legislative Session regarding revenge porn, more accurately termed as Improper Use of Sexually Explicit Materials, and classified with Harassment. It is when images are originally created with consent but then later is displayed publicly without consent. There currently are no laws in place specifically for these types of behaviors. An ongoing discussion with the task force is the creation of a non-compliance Board regarding victims' rights. Winges-Yanez will continue to follow as it progresses.
- District Attorney's Association will be holding their summer conference August 14th. Wu and Winges-Yanez will be doing a presentation.

Executive Director's Update:

- HB2549, Sex Offender Notification Tier System: DOC Transition and Reentry Administrator, Cindy Booth, advised rules have been drafted but she is waiting for them to be approved.
- Attended Oregon Association of Community Corrections Directors (OACCD) and Sex Offender Supervision Network (SOSN) conferences this month. No significant updates for the Board at this time.
- Hired a new Records Specialist, Adam Alexander and a temporary Receptionist, Alysha Gonzales. They are both in the process of training and cross training. Supervisor Harnden and Carney are looking at all the desks for basic clerical duties that can be taken on by the reception desk and assist with alleviating other desks of those tasks. Carney will be working on the review and possible reclassification of the Records Specialist and Receptionist positions. It appears the last update on either of these positions was in the 1990s and the duties that these desks are currently performing exceed their current classifications. The Agency Request Budget is completed and has been delivered. Carney and Harnden will be working on the key performance measures and the annual performance progress review. Winges-Yanez advised that Carney went into great detail on the justification for the policy packages requested.
- Currently working on the letter to the E-Board, to formally request the funds needed regarding the PBMIS rewrite. While it was approved and money was reserved for this project back in February, the formal request still needs to be submitted. This letter is due on Monday.
- Department of Public Safety Standards &Training (DPSST) is launching their new curriculum with the basic academy in September. Carney is reviewing the Parole Board section of the training to ensure the information is as updated as possible. Unfortunately, DPSST has scheduled the Parole Board training during a time when Carney & Winges-Yanez will both be unavailable to attend. The old curriculum allowed sections to be moved around as long as the topic was covered. The new curriculum is fashioned in a manner of how the work actually flows for the POs from beginning to end. This new curriculum prevents the classes from moving into a different order. Carney will be working on scheduling time for the training or recruiting someone else to train on behalf of the Board

DOC Update:

- Harris advised his team is working to update the housing section in the release plan document. One of DOC's key performance measures is the tracking of the type of housing the inmates are releasing to. They are looking at creating a drop down menu to allow the proper type of housing to be selected. This will allow DOC to pull accurate data on statistics on offenders releasing to private permanent housing or subsidy housing options.

Old Business:

- OAR 255-062-0011: Type of Hearing Eligible for a Deferral of More than Two Years. The rule as written does not encompass post 1989 convictions. This rule revision simplifies the language of our rule by following the statutory language more closely. ORS 144.125(2) and 144.228. The Board's current practice as to murder review hearings, exit interview for pre-1989 crimes, and parole consideration hearings for dangerous offenders will not change. The change clarifies that extended deferral is available for all hearings on inmates convicted of aggravated murder (regardless of crime commitment date), which is clear in statute but formerly unclear in our rules. In most cases, the Board will continue to set new parole release dates from the current projected parole release date or parole consideration date. What this rule language means is that the new projected release date must fall within the parameters of between 2 and 10 years from the date of the hearing. The notice went out June 23rd, with last date for public comment being August 22, 2014. Further action can be taken at the next Board Business Meeting on August 25, 2014.
- OAR 255-005-0005 (59) Definition of Victim: The issue of what individuals fall under our definition of a victim was brought to the Board over a year ago. Winges-Yanez continues to await further feedback from victims' rights advocates and legal organizations. The Board continues to hold these discussions, and there is no update at this time.
- OAR 255-080-0008; 0011: Notice was filed March 27, 2014. Temporary rule was also adopted. Public comment was received by one individual advising they did not agree with changes. This rule change makes it clear that everybody's requests will be treated the same. The full argument needs to be submitted in the Administrative Review and any additional pages submitted are exhibits only and not considered additional arguments. For the requests that fail to comply with the rules, the language will now state the Board shall deny review. This will allow the Board to be fair, concise and consistent with all requests. Winges-Yanez moved to permanently adopt; Wu and Thompson seconded.
- Sex Offender Level System: Our agency is currently waiting for DOC to move forward with their rules on this topic. We have exhibits that will need to be included with our rule adoption when that time comes. Currently our Division 60, section 16 is where we have the predatory sex offender rules. These rules will need to be flagged for future amendments but those will come at a later date and we will not put them on the agenda at this time. Winges-Yanez stated a new division will need to be adopted for the Sex Offender Notification Levels. She proposes creating these rules in in Division 85 and labeling it Sex Offender Notification Levels (SONL). Harnden advised when adopting these new rules to space the numbers in increments of at least five to allow for additions to the rules. Wu and Thompson agree to creation of Division 85 as SONL rules are developed.
- The notice of rights for our hearings and its language regarding timelines for submissions for hearings has been on the agenda in earlier months. No update at this time for this topic.

New Business:

- Nothing to report.

Future Board Meetings:

- August 25th @ 10:00 a.m.
- September 29th @ 10:00 a.m.

Meeting adjourned at 11:44 a.m.

BOARD OF PAROLE AND POST-PRISON SUPERVISION

DIVISION 62

SETTING OF PAROLE DEFERRAL PERIODS

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255-062-0011

Type of Hearing Eligible for a Deferral of More than Two Years

OAR 255-062- 0006 applies to the following hearings:

(1) *Murder Review Hearing*: If the State Board of Parole and Post-Prison Supervision denies a petition for a change in the terms of confinement filed by an inmate under ORS 163.105 or ORS 163.115, the Board may not grant the inmate a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

(2) *Exit Interview Hearing*: *Crime Commitment Date prior to 11/01/1989 — but on or after 10/4/1977*: If the State Board of Parole and Post-Prison Supervision concludes, applying ORS 144.125(3), that an inmate suffers from a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of the hearing, unless the inmate would be held beyond the maximum sentence.

(3) *Exit Interview Hearing*: *Crime Commitment Date on or between 1/29/1977 and 10/3/1977*: If the State Board of Parole and Post-Prison Supervision finds, based on the doctor's report and diagnosis, coupled with all the information that the Board is considering, and applying OAR 254-50-015 (1977), ORS 144.180, and pursuant to 144.175(1), (2), that deferral of the inmate's projected parole release date is necessary, the Board may not defer the projected parole release date for less than two years, or more than 10 years, from the date of the hearing, unless the inmate would be held beyond the maximum sentence.

4) Exit Interview Hearing for inmates who were convicted of aggravated murder committed on any date, and who have been found by the Board to be likely to be rehabilitated within a reasonable period of time, or who were convicted of murder committed on or after June 30, 1995: If the State Board of Parole and Post-Prison Supervision concludes, applying ORS 144.125(3), that an inmate suffers from a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board may not defer the projected parole release date for less than two years, or more than 10 years from the date of the hearing.

(5) *Parole Consideration Hearing*: If the State Board of Parole and Post-Prison Supervision finds, pursuant to ORS 144.228, that an inmate who was sentenced as a dangerous offender under 161.725 remains a danger, and that the inmate cannot be adequately controlled with supervision and mental health treatment which are available in the community, the Board will conduct the next review hearing no less than two years, or more than 10 years, from the current parole consideration date.

(6) *Parole Hearing: Crime Commitment Date before 1/29/1977*: If the State Board of Parole and Post-Prison Supervision finds that there is not a reasonable probability that an inmate will, after parole, remain outside the institution without violating the law, and that the inmate's parole release is not compatible with the welfare of society, the Board may not grant the inmate a subsequent hearing that is less than two years, or more than 10 years, from the date parole is denied, unless the deferral period would exceed the maximum sentence imposed by the court.

255-080-0008

Specifications for Administrative Review Request

(1) The request for administrative review shall be substantially in the form specified by the Board in Exhibit O, Administrative Review Request Form, and shall contain:

(a) The name and SID # of the person requesting review.

(b) The heading “Request for Administrative Review”

(c) Identification of the Board action or order for which review is requested, by name of action (i.e., BAF #3, Order of Supervision, etc.) and date of action.

(d) A plain and concise statement of the points for which the offender wants review, specifically identifying how the challenged Board action is alleged to be in violation of statutes or Board rules, or how it is alleged that the decision was not supported by evidence in the record, or in what other way the offender believes the Board’s action to be in error. A request for administrative review must concisely explain how the case fits the criteria for review listed in OAR 255-080-0010.

(e) The request must state, where applicable, what statute, administrative rule, or constitutional provision is alleged to have been violated, including the effective date of the law or rule.

(2) The administrative review request shall be created by any process that makes a clear, legible, black or dark blue image; the Board will not accept text written in pencil, carbon copies, copies on slick paper, or copies darkened by the duplicating process.

(a) All writing shall be legible and capable of being read without difficulty.

(b) The request must be written on standard 8.5" x 11” white or light blue paper.

(c) Each page shall have margins of at least 1” on all sides.

(d) Any attachments to the review request shall be duplicated on standard 8.5" x 11” white paper and must be clear and legible.

(e) Pages shall be consecutively numbered on the right side at either the top or bottom of the page.

(3)(a) The request shall not exceed 8 pages. That limitation does not include additional documentation necessary to support the request. (Under most circumstances, no additional documentation will be necessary.)

(b) Additional documentation in support of the request shall not exceed 10 pages.

(c) Legal arguments relating to the challenged order must be incorporated into the 8-page administrative review request; any claims or allegations included solely in the “additional documentation” will not be considered by the Board in its response.

(4)(a) An offender may request an exception to the limits in these rules, stating a specific reason for exceeding the prescribed limit(s). The request must reach the Board no fewer than fourteen days before the administrative review request is due. The Board, at its discretion, may permit the filing of a review request, and/or additional documentation that exceeds the page limits prescribed in subsection (2) of this rule. The Board may deny an untimely motion under this paragraph on the ground that the offender failed to make a reasonable effort to file the motion on time.

(b) If the Board grants permission for a longer review request, or additional documentation in support of the request, the documents shall conform to the rules set forth above in section (1).