



Oregon Board of Parole

& POST-PRISON SUPERVISION

Board Business Meeting Minutes Monday, October 20, 2008

- 1. Call to Order and Note of Attendance:** The meeting was called to order at 9:04 a.m. and note of attendance was made: Steven Powers, Nancy Sellers, Candace Wheeler, DOC Community Corrections Chief Mark Cadotte, Susan Deschler. Excused: Darcey Baker and DOC Director Max Williams.
- 2. Approval of September 15, 2008 minutes:** Steven Powers noted one typo on page 5 of the minutes which will be corrected. The minutes were approved and adopted without objection.
- 3. Chairperson comments – Steven Powers:**

Parole Hearings Workgroup: Steven stated that the Parole Hearings Workgroup is continuing and going well. The final meeting is scheduled for Thursday October 23 for an all-day meeting. Once facilitator Brenda Rocklin has finalized the workgroup's recommendations we will officially receive them at the next regular scheduled Board meeting. This will start the process of evaluating and studying the recommendations. Mark asked if there would be some feedback loop to the workgroup as the Board gets the recommendations and if there is any process in reporting back to the workgroup. Steven said not in an official capacity, depending on where the people have articulated their interest. Changes in the victim notification process will be ongoing and people will be involved as we progress. Candace asked about the media's coverage of the workgroup. Nancy reported that there was interest at first, but that it has dropped off. Once the report is released, interest may pick up.

Corrections Population Forecast: The October 2008 forecast projected a population increase of 2-3% in the incarceration population and similar growth in the PPS supervision population; however, this will be adjusted after the November election to accommodate any sentencing policy changes.

Current and Future Budget: The September Emergency Board granted the Board's request for funds to cover shortfalls in its Attorney General and professional services allocations. We are working through our budgetary process and Nancy did good work in getting the E-Board request.

Federal Forest Funds: Congress approved a four-year authorization as a phase-down funding: 90% in 2008-09, 74% in 2010-11, and an estimated 40% in 2011-12. The Federal Forest Payments Task Force is wrapping up its work and will have recommendations related

to community corrections. We will have to see how it will impact the Board business with jail space.

Visit from NIC: NIC is putting together a curriculum for new and continuing parole board members. They are conducting site visits of various parole board/releasing authorities around the nation and have chosen Oregon to observe an interview. Susan Yeres is scheduled to attend hearings on November 26 and would like time scheduled with the Board and Nancy on the afternoon of November 25 to discuss challenges facing the parole boards in the next five years, including particular training needs.

Education and Outreach: Steven recently presented the standard outreach material to the Portland Business Alliance "Leadership Portland Program." Steven and Nancy will meet with Multnomah County District Attorney Michael Schrunk and his chief deputies. They will talk about what the Board is doing and will offer a CLE training similar to that given to DOJ. Steven said that if there are any particular items which the members want to raise, advise Steven if there is any thing that would be helpful to communicate to the DA.

Training: Steven requested future discussion of setting conditions of supervision in light of the day-long session with Richard Stroker, one of the first substantive conversations the Board has had the opportunity to have an outside expert on the business of parole and supervision in the community. It is Steven's hope that as the Board engages in the hard work of recalibrating this agency to be more transparent and more nimble, the Board – as an agency – will be better able to engage in these type of discussions with its public safety partners to further the good work that we do.

4. **DOC Update**

Mark Cadotte stated that Denise Sitler will attend the Parole Board hearings training with Keith Benefiel and Dawn Persels on the sanctioning portion of the training. Denise will be available during the portion of training to answer any questions and address the compact hearing process. Mark also will report at the January 2009 Board meeting on the status of Post-Sentence Reports. Mark will get together with Dean McNulty from CCCF and invite him to the Board meeting in January to also report on the Post-Sentence Reports.

5. **Executive Director's Update:**

Nancy Sellers recapped the E-Board request and said that the Board has worked to educate budget leadership that we operating at or beyond capacity with our staff. The \$15,000 salary pot shortfall request for the Board by DAS was deferred to the December E-Board.

Policy Option Packages: Steven and Nancy met with Tim Nesbitt, Joe O'Leary, George Naughton, Linda Ames and Linda Gilbert to appeal denial of the Board's policy option packages for rebasing the Attorney General costs, a new Board member position, a paralegal/hearings officer position, and the P&F retirement status funding for Board

members. They understand that the Board's workload has grown in the past 10 years with no increase in staff. However, budget issues will likely limit the ability to pass needed increases.

Outreach and media: Gillmore interest seems to be decreasing, although GQ magazine may do an article. Diane Downs' parole consideration hearing scheduled for December 9 is receiving growing interest. Nancy and Kim are working with Interstate Compact staff, California, and Chemeketa Community College on the hearing details and logistics.

Institutional Report Update: DOC updated their institutional report on Diane Downs, including information from her time in New Jersey, including her escape attempt there. There are some questions about the completion of the report and whether it meets the statutory standard of an institutional report because there are some areas that may not have enough depth. Nancy will talk to DOC Population Management Administrator Guy Hall to ask Jef VanValkenburgh to review to ensure the Board has the most accurate and complete information available.

Victims Services Review by the AG Office: This is going well and we will be hearing from them soon; they attended hearings last week and have been asking for more information. Their review will tie in with the Parole Hearings Workgroup.

Outreach: Steven and Nancy met with Representative Cameron last week to discuss the Board's role and update him on current issues, including budget and staffing challenges. Steven and Nancy will meet with presumptive AG-elect John Kroger on October 31 to give him an overview of the Board and its interrelationship with the Department of Justice.

Staffing Issues: Malinda Wilson was hired as a permanent warrants specialist. DOC will hold interviews for the extradition position next week, which will determine whether Nicole Kellogg will remain on staff or leave for DOC. Once the extradition position is hired we expect to rotate Shawna Harnden into the Sanctions Specialist position. Alison Murray is working 15 hours a week to free up Tami Jarnport's time so that she can prepare for her rotation as Hearings Officer.

Steven requested that an announcement go out stating Malinda is our primary warrants specialist and all questions should be directed to her. Steven also asked if someone will be going to SOON meetings and Nancy stated that Michelle Mooney will be going.

Mark asked Steven if he would be attending the November OACCD meeting. Steven said he didn't believe he would be able to attend.

6. **Old Business:**

Transfer of Inmates for Psychological Evaluations: At Nancy's request, Guy Hall is investigating whether inmates who are transferred to the valley for psychological evaluations can avoid losing their housing, work and other assignments. He believed that

would be in keeping with the Oregon Accountability Model. Steven asked how this will be communicated to the inmates. Nancy said an article in inmate newsletters could be followed up with reminders in the Notice of Rights that Kim sends to inmates scheduled for psychological examinations. Nancy will update at future meetings.

Candace said that she would like to receive institutional newsletters. Nancy said she use to receive them by e-mail when working for DOC, and will check about getting them here.

7. **New Business:**

Proposed Temporary Rule OAR 255-032-0006: Steven drafted a proposed temporary rule to hold a hearing in November for a juvenile aggravated murderer who committed his crimes after October 31, 1989, and prior to May 1, 1991. This is to hold a prison term hearing as opposed to applying the straight juvenile aggravated murder rules which is in Division 32 of our hearings, because of the mandamus case in Marion County Circuit Court ordering us to hold a prison term hearing and set an initial release date. Steven gave a brief history for a juvenile aggravated murderer who came into the institution. As an adult, an aggravated murderer could receive a capital sentence with life without parole or if they have a possibility of parole, there was a two-step process to follow. A juvenile could not receive a minimum sentence by statute, so that set up a conflict in the statutes.

The Board sought AG advice and in the late 1990s and promulgated the juvenile aggravated murder rules. As part of those rules, the matrix was created (exhibits P1, P2, and P3). Then the juvenile aggravated murder rules were applied to these offenders and now they are set up for the two-step process. Since these rules were promulgated, we have been in litigation. The Board is appealing an order by the Marion County Circuit Court to set a release date instead of the murder review date. The rule takes the normal JAM matrix and applies it to a prison term matrix. The other option is under the statute. Since this is a temporary rule, we can adopt and apply it and let it expire after 180 days. When we are finished with the litigation, we can look at the JAM rules in total. Steven's recommendation is to adopt this rule and can go the intricacies of it. Candace asked if there is anything under 006; Steven said no. Mark asked about the narrow timeframe for when the time was committed. Steven said after 1991 the statute changed. Nancy said the October 31, 1989, date is the precursor to the November 1, 1989 when sentencing guidelines went into effect. Steven said that in 1995 there was another statutory change. It was moved to adopt this rule without objection. Steven wants the temporary rule filed this week. The temporary rule will expire on April 20, 2009.

PPS Orders printed in Spanish: Candace said the standards special condition could be in Spanish but in specific conditions there would have to be someone available to translate those for each order. Mark said this would be Community Corrections' responsibility. Steve would like to begin with the Notice of Rights being translated in Spanish. Nancy said there are organizations certified by the state to provide official translation. Steve requested Nancy to check on the cost of the translations. Steve would

request to look into on Sanction Notice of Rights and the conditions of supervision will affect a larger population than the seven which the Board has. Mark said he could query the field to see if they have a local control notice of rights in Spanish. Steve said the Oregon Judicial Department has their own translation unit, so an intergovernmental agreement could be explored. Steve requested how much this would cost and also check to see how much updates on orders would cost. Steve asked Mark if DOC has staff who translate and asked if the offender works with the counselor to get something translated? Mark said yes, and that he would send translated samples to Nancy.

8. New Business:

Sharing of Public Comments: Steven said that public comments should be documented in the minutes of Board meetings. Nancy went through the public comments made on the Gillmore case including her first contact on October 23, 2007, briefing points, media questions, and comments from the public. Nancy gave showed the threatening e-mail that resulted in State Police intervention, transcribed voice mails, and e-mails received by the agency. This has been compiled in a notebook. Candace asked if this would be part of the minutes and Steven said the discussion would be part of the minutes. Steven would like to make public comments be part of the minutes if they deal with Board business. This will apply to other high-profile cases as well. Candace asked about the yellowed newspaper clippings that are in the Board library. Nancy said it is a good idea to retain that history. Steven asked about the Board's process to collect public comments. Nancy said they are forwarded to her from staff or the webmaster.

Steven wants the Gillmore file to include public comments, and a consistent system should be set up so that if the public should inquire, everything that has Gillmore's name on it would be accessible. He recommended a notation in the records file that there is additional information. Nancy recommended that these supplemental files or binders are stored somewhere in the records office.

The Gillmore case was unusual in that it was governed by a stipulation agreement and there was a significant period of time between when the record closed and when the Board made its decision. During this period, new material from the public and media was not set to the members.

Candace asked that under normal circumstances, when the people comment to the Board before the Board makes a decision, will there be an effort to have the Board see it before the hearing? Steven said yes and that information should be part of the hearing packet. Steven said newspaper articles are in hearing packets as appropriate. Steven said everyone should be copied with correspondence before the hearing including the offender, the DA, the victim and Board members (with confidential items shielded) even if it needs to be added as a supplement. Mark asked if there are responses to articles in newspaper websites. Steven said if the public sends the article to the Board then it would be considered. Steven said that comments after the decision is made can be sent to the file for future hearings.

Steven asked if we respond to the people who send in comments. Nancy said only if they ask a question or request a response. Steven recommended posting on the website timeline for submitting written comments in advance of a hearing. Candace suggested if there are a lot of written public comments that they be printed with four pages on one sheet of paper.

Richard Stroker Presentation: National expert on conditions of supervision Richard Stroker of the Center for Effective Public Policy spoke to representatives of the Board, DOC and community corrections on October 6, 2008. Steven asked if there were comments from the field that Oregon sets so many conditions that it confuses the offender and that we are setting them up to fail? Candace felt like Stroker focused more on conditions that would be helpful rather than motivation to succeed. It was more global and these are conditions that can work. Nancy said that in moving the offender from prison to the community that the Board can empower POs through better training and communication. This would include better understanding what “per PO” really means. She said that Stroker’s evidence shows that adding very specific conditions is not only more confusing for offenders but also creates a perception of a potential liability for the POs if they are not holding the offenders to each of those conditions at the same level as the others. Current practice has no prioritization of the conditions. The PO should be developing a relationship with the offender and doing some case management, looking at helpful additional conditions later as needed. Mark asked if there was a discussion of tailoring of conditions toward the offender versus the crime. Nancy said that Stroker’s advice was just that, and to front-load conditions, but to make it easier for the PO to add them later.

Mark said that on “per PO” conditions, many POs believe that they are obligated to impose that condition or else they are responsible or somehow liable for the offender’s bad actions. Nancy said this can result in offenders being told by their POs that the Board must modify the conditions, and the Board tells the offenders that their PO has the authority to remove it. Better education in the field and on the Board’s website should be a priority.

Steven asked Mark if there is a timeline for DOC risk assessment evaluations. Mark said they are compiling it at CCCF and Shutter Creek. They are exploring the possibility of adopting Multnomah County’s automated LSCMI and incorporating it with DOC’s assessments. The goal is to use a consistent tool in both the institution and the field. In the field they develop a case plan and use the criminogenic needs that are identified in the assessment process. Part of the goal will be to incorporate from the DOC and will share with the Board, allowing the Board be more proactive in setting conditions. This will be discussed at the Transition Network. Candace requested feedback on the presentation. Mark suggested reconvening with some of the people who participated in the session.

9. Additional items:

- Nancy said that she and the staff will retreat on October 28 to discuss mission statements, workload strategies and staffing, and teambuilding. Staff will join the December Board Meeting to discuss the agency's mission statement and other topics. Board members are invited to join the group for lunch.
- Nancy stated when Inmate Gillmore was transferred from TRCI to OSP for a one-day medical visit that it triggered VINE notifications. She has raised the question with DOC Public Affairs if this may be disruptive to victims to notify them twice in one day that an offender has been moved when it results in him returning to the same institution the same day.
- Candace asked about the meeting with NIC Consultant Susan Yeres; Steven said it will be a public meeting.

Future Board meetings:

November 24, 2008 – Room 108

December 8, 2008 – Room 108

Steven said that if there are any public comments on the Parole Hearing Workgroup at the November Board meeting that those should be at the beginning of the meeting with the Board's other business to follow.

The Board meeting adjourned at 10:35 a.m.

Minutes submitted by Susan Deschler