



Oregon Board of Parole

& POST-PRISON SUPERVISION

Board Business Meeting Minutes Monday, November 24, 2008

1. **Call to Order and Note of Attendance:** The meeting was called to order at 0903 a.m. and note of attendance was made: Steven Powers, Nancy Sellers, Candace Wheeler, Darcey Baker, Michelle Mooney, DOC Community Corrections Chief Mark Cadotte, DOC Director Max Williams and Guest, Lori Tribett.
2. **Approval of October 20, 2008 minutes:** Mark noted that on page 6, in the last paragraph, he would like it changed to "DOC is exploring the possibility of adopting Multnomah County LSA Model." Steve noted on page 4, he would like it added that the temporary rule expires on April 20, 2009. Candace noted a few minor typos. Nancy will amend the minutes and re-distribute. Minutes approved as corrected.
3. **Public Comment on Hearings Workgroup:** None present.
4. **Chairperson Comments – Steven Powers:**
 - **Budget:** Steve gave an update on the budget shortfall for 2007-09 biennium. The December 2008 forecast was down from the September forecast and projects an approximate \$140 million General Fund shortfall for the current biennium. The Governor's only option is across-the-board cuts. Filling that \$140 million hole would require a 1.2 percent reduction of the General Fund for the 2007-09 biennium, which translates to about a 5 percent cut for remainder for the last six months of the biennium. An emergency DAS rule will be in place by mid-December as the Executive Branch response. The Legislative Fiscal Office has ordered agencies show how they would make cuts of 5-20 percent in the 2009-11 biennium. It is expected from both the Governor and LFO that 2007-09 and 2009-11 reductions will be in alignment. The Governor will release his recommended budget on December 1, 2008, which will outline his priorities. This also will be the Board's notice of whether any policy option packages have made it into the Governor's Recommended Budget. There will be important policy choices in terms on what we are going to do or not do.
 - **Attorney General costs:** Steve will meet with the Attorney General's office tomorrow on cost reduction options.

- **NIC Visit:** Sue Yeres, Project Team Member of the National Institute of Corrections Parole Board Training Project, will visit tomorrow. She will be here to facilitate discussions with the Board members and Nancy on parole board member training. NIC is developing a national curriculum and Oregon was chosen as part of the project.
- **Attorney General-Elect John Kroger:** Nancy and Steve met with AG-elect Kroger to bring the discussions on how our agencies can work together and how the entire criminal-justice system can better coordinate on relevant legal issues. For instance, we recently had a case where an offender, who refused parole under Bollinger, filed a state habeas corpus claim that had the potential of moving up his release date. The Board had been in contact with a registered victim in the case about the upcoming release, but was not informed of the possibility that the release was even earlier if the litigation was successful. Steve proposes that the Board take the lead in getting DOC-OISC or the legal coordinator, DOJ, and DOC-Community Corrections (as a representative of the LSAs) to coordinate these cases better and foster clear communication.
- **Education and Outreach:** Nancy and Steve recently presented a newly revised CLE to the Multnomah County District Attorney's office. District Attorney Michael Shrunk and about 35 deputies attended and it provided a good opportunity to strengthen our relationship with one of criminal-justice partners. One of the outcomes will be to standardize a practice where the DDA can send the Board a scope of the crime report to help provide the future Board (in 2030 and beyond) with more information about the crime than we currently have in the Post-Sentence Reports. Other DDAs also raised the possibility of cross-examining the offender themselves and providing the contracted psychological with information that they thought was relevant.

Also, on this point, at the last Governor's Re-Entry Council, Steve made contact with Eileen Kennedy, an Oregon CURE board member. They discussed the pamphlet about Board hearings that they produced some time ago and how we can help update that information as well, as CURE is interested in producing a similar pamphlet directed at sex offenders. Steve hopes that the full Board can meet with CURE's board in coming months to move this coordination project forward.

- **Attorney General Review of Victim Services:** Attorney General Myers and DOJ staff will transmit his review of the Board's victim services later this week. It will be a bifurcated report in that there will be a public section and a report covered by attorney-client privilege so that we can discuss legal matters. Steve plans on bringing that report to the December meeting.
- **Parole Hearing Workgroup:** Today the Board begins discussions on the final Parole Hearings Workgroup report. Steve expressed his gratitude to Brenda Rocklin, SAIF President and CEO (and former DOJ attorney in many capacities including in the criminal justice division), for facilitating and hosting the workgroup. The workgroup's success is due in large part to her ability to dive into the Board's statutes, rules, procedures, with an eye for how the criminal justice process works, as well as for taking countless evenings and weekends to make sure that the workgroup was moving toward

consensus recommendations and producing this outstanding blueprint for what the Board can focus on in the coming months to update our hearings and notification processes. The workgroup's success also is due to both Nancy Sellers and Susan Deschler's hard work and dedication by taking extra time to make sure that the process went smoothly and to produce the detailed minutes found in the report's appendices. What the Board ultimately does with the document will be worked out later in the agenda and in the coming months.

5. DOC update – Max Williams:

- **Budget:** DOC's share of the 1.2 percent allotment reductions that have to be achieved between now and the end of June 2009 is about \$15 million. DOC has just received notice from the federal government that they would make the last allotment for the State Criminal Alien Assistance Program (SCAAP). This money has arrived and is about \$6 million. DOC will ask DAS for some of the SCAAP monies back that were set aside before it was known that the federal government would help out. DOC is also looking at how to handle the challenges of Measure 57. DOC will have discussions and ask CJC to set up a standard charging practice to help with budget projection and planning. There was no funding associated with measure 57, it will be up to the Legislature to implement funding for treatment needs. Dependent on the Governor's Recommended Budget and the Legislature, there may be monies awarded toward treatment that will be used in DOC and shared with Community Corrections to pay for continuing treatment for offenders released. With this money it would allow offenders to release earlier and seek treatment outside of DOC, minimizing the number of offenders incarcerated.

- **Inmate movement within the system:** DOC held a summit to discuss resolutions around inmate movement. The purpose of the group was to see if they could put into place some methodology around how offenders are staged, how they are moved, how long they stay at facilities, and when they get treatment. The goal is to eliminate extra moves and resolve the competing interests surrounding inmate movements. The recommendations could also help to make the system safer, give the offenders more stability, and save money. Guy Hall is running the groups that are working on this and hopefully will have recommendations by February. It was suggested that Guy host a presentation for the Board.

6. Executive Director update – Nancy Sellers:

- **Richard Stroker Presentation:** In the Board packet are Richard's notes from his presentation. Nancy also will distribute her notes to those who attended the presentation. At some point, she would like to discuss the possibility of reconvening a subset of that group to do some follow-up work.

- **Diane Downs Hearing:** The hearing will be December 9, 2008, at Chemeketa Community College; at 9:00 a.m. Oregon State Police will provide security. There have been requests from newspapers to have cameras in hearings so they can post video clips online. The Board and Nancy will do a site visit on December 1, 2008.

- **Staff:** Abbie Firestone returns from Maternity leave today and will work half time through the end of the year. Nicole Kellogg was hired by DOC as Extradition Officer, and her last day will be Friday, November 28, 2008. Shawna Harnden will begin a job rotation as the Revocation Specialist on December 1, 2008. The Board's .5 FTE IS-5 position has been opened for recruitment and the posting will stay open for two weeks.
- **Inter Agency Agreement:** Nancy and Steve will meet next week with DOC Director Max Williams and Deputy Director Mitch Morrow to discuss business plans and the current interagency agreements in place.

7. Old business:

- **Parole Hearings Workgroup:** The workgroup report is final, and will be sent out to various stakeholders and the Governor's Office. Darcey wanted to know about the section in the report that covers the 90-day written notice to victims. Who does the notice apply to and what types of hearings does the notice apply to? Steve advised that it would be defined by what rules the Board sets and the policies established in regards to this. Steve would like to address a few of the recommendations prior to the next Board Meeting if possible. One of those is the recommendation to set up a separate workgroup to discuss psychological evaluations. Steve and Nancy have previously met with the Board of Psychological Examiners' executive director and the lead investigator to give them an update on the workgroup process and to re-establish relations. The Board would like to continue having discussions with the Board of Psychological Examiners to see if they have any interest in partnering with the Board or if they want to have any input into the group and recommendations made. Another recommendation that Steve wants to begin discussing is to establish an advisory council. There are many sides of this to look at including how a council like this would work, and who would make up the council. This is a recommendation that can wait until the New Year.

Steve would like to find out how the Board wants to evaluate and handle each of the recommendations. He would like to start with a process that will track each of the recommendations and changes made. Nancy will spearhead this part of the project and establish a working chart. This will allow them to see what is happening to each recommendation, and better help to answer questions that might be received regarding the recommendations.

At the next Board Meeting Steve would like to discuss the recommendation regarding statements made at release hearings. Two recommendations that Steve has agreed to work on is the recommendation regarding the psychological exams and the recommendation to evaluate the standards/criteria that the Board sets for the psychologists contracted. Steve will begin working on this recommendation and keep the Board posted.

Two recommendations that will have to be worked out at the same time are the definition of a victim, and the recommendation to use local District Attorneys' offices to re-contact victims of crimes committed by those under the Board's release authority. This would allow the DAs to verify victims, establish if the victim wishes to be registered with the Board, provide victims notice of their rights and their potential role in the Board's processes. Steve would like this added as an item to the December Board Meeting.

- **Inmate Transfer Codes:** DOC has resolved issues regarding the coding of inmates being transferred. Once this is approved by Max Williams, notice will be sent out to the counselors.
- **Inmate Newsletters:** As requested by the Board, DOC is forwarding inmate newsletters to Nancy, who then forwards them to interested Board members.

8. New business:

- **Opting into the Matrix:** This issue was recently discussed when an offender submitted a request for discharge. While reviewing the file it was discovered that the offender had opted into the Matrix 10 years prior. When the offender opted into the Matrix, it was after 1989 when the Matrix was no longer in effect. The Board Members and Kim Gonzales discussed that when offenders opted into the Matrix when Matrix was no longer in effect, the offenders were given the last Matrix rules in effect. This particular offender was not eligible for discharge and was only eligible for inactive status per the rules in effect. The Board wanted to formally discuss this in case this issue ever arises again. Board Members agreed to use the last applicable rules in effect with regards to Matrix offenders who opted into Matrix post-1989. The Board also noted their position that once offenders opt into the Matrix, they can not opt out. The Board will adopt a policy to address both of these issues.
- **Sex Offender Resource Lists:** The Board would like to look into obtaining a list of resources for sex offenders that they could provide to release counselors and to offenders at hearings. Darcey will write to the Association of Treatment for Sexual Abusers in Oregon requesting a list of resources they recommend and possibilities for correspondence training. The conversation that Darcey has already had with ATSA was encouraging, as they feel that offenders who seek treatment prior to release do better in treatment after release and have a higher chance of success. Another avenue that will need to be addressed is if the Board provides a list of resources to inmates, will DOC allow these materials into the prisons and under what restrictions. Once Darcey receives a response from ATSA, she will follow up with Heidi Steward, and Jef Premo.
- **Rules Coordinator:** The Board appointed Michelle Mooney As agency rules coordinator.
- **OACCD Discussion:** At the last OACCD meeting there was a discussion regarding parole officers Mirandizing offenders when they are taken into custody on violations, not

criminal violations. Throughout the state it varies by department policies/processes. The Board's position is that it is not necessary for Board offenders. Individual counties will want to check with their local county counsel for local probation cases.

- **Budget Proposals:** Nancy, Darcey, Heidi Steward and Hank Harris met regarding how release plans can be streamlined and change processes to control workloads for both agencies, particularly in light of budget reductions and growing inmate populations. Darcey said that for offenders who are not incarcerated for Measure 11, high profile or sex offenses, the institution counselors would recommend conditions specific to the crimes of current incarceration. This would mean going to generic conditions based on crimes and historical information. Release plans for high-risk offenders would still come before the Board for a vote. Under notables criminogenics, mental health, not issuing conditions on these, alerting the POs to address these issues under General Condition 13. The orders will be processed administratively without Board vote. Darcey said that counselors will need to be vigilant about researching restitution and compensatory fines. Steve has concerns regarding the potential impact on victims.

Nancy said that this change may be necessary to implement soon because budget reductions this biennium may delay filling Tami Jarnport's position while she is on rotation as the Hearings Officer.

Nancy discussed the need to have alternate hearings officers to back up Tami Jarnport, now that Eric Rosentreter has retired. Mark Cadotte suggested that the Board look into an agreement with DOC to use DOC hearings officers.

Nancy and Steve discussed options to reduce the Administrative Review backlog to 60-days out to meet the Board's Key Performance Measure and to help control litigation costs; currently there is a nine-month backlog.

9. Additional items for consideration:

- **Order of Supervision Key:** Steve will review and then resubmit it to the group and Board staff for review. Final approval will be on the January Board Meeting agenda, and then it will be sent to AG legal counsel for review.
- **Dangerous Offenders:** Darcey received a request at the DPSST Basic Academy that there be some way to identify dangerous offenders on the orders of supervision. Steve would like to find out about having it programmed to pull automatically from PBMIS when the orders print.
- **Signed Orders:** Darcey is receiving copies of signed orders of supervision. She wanted to know if there was a process in place to handle these or if one should be created. No policy is currently in place, orders received are usually submitted to the records office to handle. The Board will look into this after the first of the month when staffing rotations will be firmed up and budget effects on workloads is decided.

- **Hearings Officer Script:** Jeri Jarmer provided the Board a script she uses for hearings. Other hearings officers have been asking for copies of this. Darcey wanted to check to see if the Board wanted to review it and make any changes before disseminating it to the field. Steve wanted to just send it out as a sample and not a Board document. Darcey will review it to ensure that it does not violate any Board rules, Tami will review it from the perspective of a new hearing officer and then Nancy will prepare it with changes and distribute.

Meeting adjourned at 11:50 a.m.

Future Board Meetings:

December 8, 2008 – Room 108

January 26, 2009 – Room 150 @ 9:30

February 23, 2009 – Room 150

Minutes submitted by Michelle Mooney