



# Oregon Board of Parole & POST-PRISON SUPERVISION

## Board Business Meeting Minutes Monday March 14, 2011

**Call to Order and Note of Attendance:** The meeting was called to order at 1:33 p.m., and note of attendance made: Aaron Felton, Jeremiah Stromberg, Candace Wheeler, Darcey Baker, Michelle Mooney, and DOC Community Corrections Chief Mark Cadotte. No guests in attendance. Excused from the meeting DOC Director Max Williams.

### Chairperson Comments

- **Proposed Legislation:** Senate Bill 63-1 is the bill that contains the one legislative request the Board made during this session. There has been one amendment to the bill based on a request from DOC. Aaron and Jeremiah will be attending the scheduled work session in front of the Senate Judiciary Committee on Thursday. The Board is tracking a public records bill which is currently in front of the Judiciary Committee and will be taking testimony in March. This bill could have an impact on how the Board handles and charges for public records requests.
- **Budget:** The Board is scheduled to make their presentation to the Ways and Means Committee in April.
- **New Chairs Training:** Aaron will be attending training in St. Louis the last week of March. The fees for this training were paid for by the Federal Government.

### DOC Update

- **OACCD:** The regularly scheduled meeting was cancelled this month so that the group could review proposed legislation that could have an impact on community corrections.

### Executive Director's Update

- **Annual Hearings Officer Training:** The training has been scheduled for June 3, 2011, at DPSST. Approximately 40 registrations have been received so far, with registration closing on April 15, 2011. The Board will need to begin working on the agenda and training materials to be used.

## Old Business:

- **OAR 255 Division 36:** The Board reviewed the final draft of the rule which included small edits to the referenced statutory authority. The Board voted unanimously to adopt the revised rules. The rule will be permanently adopted and notice filed with the Secretary of State Office.

## New Business:

- **Inactive/Active Supervision:** Recently there has been several questions about what the Board will accept as adequate substantiation or reasons for extending an offenders active supervision period. The Board reviewed a list of questions and provided an answer for each one (see attached guide at end of minutes). The information will be sent to the field and will be shared with the Board staff that review requests.
- **Division 94 Review:** The complete rule was not reviewed and no revisions were made.
- **ORS 144.223:** Candace noted that the statute needs to be updated to include language in the first paragraph to list post-prison supervision. Currently only parole is listed in the first paragraph. Jeremiah will follow up with what options are available, and if no options are available the Board will propose the change during the next legislative session.
- **Interpreting Division 80 Rules:** The Board will be enforcing the rules established in Division 80 which detail the specifications for filing an administrative review request. The Board had one question regarding what materials and writing implements the local county jails are allowing inmates to use to prepare correspondence. Mark Cadotte will check with the Jail Inspectors and report back to the Board.
- **SVDO & PSO Refused Evaluation Process:** Darcey would like this added as a future Board meeting topic of how the Board wants to handle evaluation refusals. Darcey will seek advice from legal counsel to bring to the discussion.

## Future Board Meetings:

March 28, 2011 \*\*cancelled\*\*

March 24, 2011

April 25, 2011

May 23, 2011

June 27, 2011

Meeting adjourned at 3:23 p.m.

## Active / Inactive Supervision Guide

To review the complete rules please see OAR 255 Division 94

When an offender is released from prison and the supervision order is issued, the Board will set the active supervision review date (ASR/SSR/TPD).

Each month DOC research will send out a list to community corrections offices advising them of all offenders whose active supervision review date is within 60 days. Upon receipt of this list, the counties are expected to review each offender and then make a decision to extend the offenders supervision, or move the offender to inactive. The Board should be provided a request to extend active supervision or a copy of the letter placing the offender on inactive supervision.

### **Extending Supervision**

In order to extend an offenders supervision the parole officer must provide evidence that the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution. It is important to note that continuance on active and/or reactivation are, by statute, at the discretion of the Board, and also of the LSA. The statute (ORS 144.085(3) and (4)) states that "the supervisory authority may" request "the board to extend the active supervision period or to return the offender to active supervision status \* \* \*." The board may extend, etc., "if it finds the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution." The request to extend supervision must provide the request date, offender's name, offenders SID, crime(s), offender's employment status, offender's address, area(s) of non-compliance with adequate substantiation showing how the offender has not substantially fulfilled the supervision condition(s), and a legible signature of the parole officer.

The request to extend supervision must provide adequate substantiation and must document violations or non-compliant behavior that has occurred in the 6 months prior to the active supervision review date. Requests that document violations/behaviors that occurred more than 6 months prior to the review date must have compelling substantiation to show a lack of substantial progress or compliance since the violations occurred.

**Monetary Non-Compliance:** Requests documenting non-compliance due to monetary fees must state which type of fee has not been paid. The Board will extend supervision for non-payment/outstanding balance of compensatory fines or restitution. The Board **will not** extend supervision for non-payment/outstanding balances on supervision fees, court fees, or extradition fees.

**Deported Offenders:** Offenders who have been deported do not need to be extended. The issue is not that they "haven't done any of the conditions of supervision," but rather that there is no evidence that the individual has violated any conditions. Therefore, based on the statutory language, "\* \* \*" when an offender has served the active period of parole or post-prison supervision established under subsection (1)(a) or (b) of this section, the supervisory authority shall place the offender on inactive supervision status." (ORS 144.095(2), emphasis added.) Parole Officers overseeing deported caseloads can leave these offenders at IMMI.

The exceptions require an action on the part of the LSA and the Board. Offenders who end up not being deported are required to report. If they fail to report then they are in violation of supervision and action can be taken. A request to move to inactive supervision is not required on these offenders.

**Compact Offenders:** Offenders being supervised via Interstate Compact are not eligible to be placed on unsupervised status. The PO must submit a request for extension stating the offender is a compact offender.

**Treatment:** This includes all types of treatment programs. Must substantiate how the offender has not fulfilled the treatment requirements, i.e. still attending treatment, has not completed treatment, has failed treatment, has failed to attend treatment, has not completed aftercare, etc.

**Probation or other open cases:** The Board will not extend on the sole basis that the offender has active probation cases.

**Employment:** Must substantiate what about this category makes the offender substantially non-compliant. Merely being unemployed is not adequate. Must substantiate how the offender has failed to perform job search, or failed to apply for jobs etc.

**Drug Courts/Other Probation Conditions:** An offender who is participating in a drug court program or court ordered community service is not enough to substantiate that an offender must remain on active supervision.

**Substance Abuse/Alcohol Use:** Continued use, or recent use of prohibited substances is acceptable to keep an offender on active supervision.

**Warrants/Abscond Status:** An active warrant is substantiation enough to request an extension of active supervision. However, stating the offender has absconded when there has been no request for a warrant would require more information as to the lack of compliance.

**New Criminal Activity:** Must substantiate or describe the actual behavior. An arrest is not enough substantiation to show substantial non-compliance with supervision.

### **Inactive Supervision**

The supervising officer is the best judge to determine if an offender has complied with supervision conditions and should move to inactive supervision. One of the few reasons that the board would not approve an offender moving to inactive supervision would be outstanding restitution fines. Once the supervising officer decides to move the offender to inactive supervision, a copy of the letter that they submit to the offender should be sent to the Board. the lack of compliance.