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**NEVADA BOARD OF PAROLE COMMISSIONERS**

**MINUTES**

**Meeting of the**

**Board of Parole Commissioners**

**May 31, 2023**

**NOTE: The following minutes have not been approved and are subject to revision at the next meeting of the Board.**

The Board of Parole Commissioners held a public meeting on May 31, 2023, beginning at 9:00 AM at the following locations:

Conference room at the central office of the Board of Parole Commissioners, located at 1677 Old Hot Springs Road, Ste. A, Carson City, NV, and video conference at the Parole Board Office, 4000 S. Eastern Avenue, Ste. 130, Las Vegas, NV.

**I. Open Meeting, call to order, roll call 9:00 AM.**

The meeting was called to order by Chairman DeRicco. Present in Carson City were Commissioner Jackson, Commissioner Baker, Commissioner Weisenthal, and Chairman DeRicco. Present in the Las Vegas office were Commissioner Christiansen and Commissioner Bailey. Commissioner Verchio was absent, excused.

Support staff in attendance:

Katie Fraker, Executive Secretary  
Kelly Mellinger, Hearings Examiner II

Members of the public present in Carson City included:

None.

Members of the public present in Las Vegas included:

None.

**II. Public Comment.** No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

**III. For possible action:** Review/Approval of minutes from the April 27, 2023, Board meeting.

<b>Motion:</b>	<b>Approve the minutes from the April 27, 2023, Board meeting as corrected.</b>
<b>Made:</b>	<b>Commissioner Jackson</b>
<b>Seconded By:</b>	<b>Commissioner Baker</b>
<b>Votes in Favor:</b>	<b>DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey</b>
<b>Votes Opposed:</b>	<b>None</b>
<b>Results:</b>	<b>Motion passed</b>

**IV. For possible action:** Comprehensive Review of Parole Standards (NRS 213.10885). Presentation by the JFA Institute on the revalidation of the Nevada Parole Risk Assessment. The Board must make a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole [NRS 213.10885(6)]. The Board may take action to make changes to the parole guideline and risk assessment and the elements contained within, make a determination regarding the effectiveness of the current risk assessment and guideline, and discontinue the use of an element on the parole guideline and risk assessment if it is found to be ineffective.

Chairman DeRicco introduced James Austin, with JFA Associates, stating that Dr. Austin will be leading this agenda item and provide an overview of the comprehensive review along with any recommendations.

Dr. Austin stated that this was a follow-up to last month’s Board meeting, in which he presented preliminary findings on the validity of the risk assessment instrument. He stated that the initial analysis showed that the risk assessment was working pretty good with the exception of a few scoring items. He stated that it was then decided at the last Board meeting to get updated data files from the Nevada Department of Corrections and redo the analysis. He stated the purpose of getting updated data was so the Board would have a full three-year follow-up on everyone that was included in the validation study. He also explained that getting updated data allowed JFA to refresh the scoring items, double check the scoring, and computer score the items to ensure that the items were being assessed appropriately.

Dr. Austin stated that what they found with the updated data files were positive. He stated that while the recidivism rate went up from 24% to 26%, more importantly they found that the two scoring items in question do work; especially the disciplinary conduct in the past year and by correcting the classification level.

Dr. Austin read through the “JFA Risk Revalidation Presentation Slides” PowerPoint document, highlighting the differences with the new data sets.

Dr. Austin explained that the first slide shows the total points and recidivism using the updated data sets. He stated that there is a very good progression of the recidivism rates. He highlighted that the total risk score of ‘7’ has a 20% recidivism rate and the total risk score of ‘13’ has a 36% recidivism rate. He stated these rates are a bit high compared to what he would like to see in terms of a cut-off point.

Dr. Austin proceeded to the next slide and explained that this table showed a modification of the cut-off points. He explained that 6 points would be considered a 'low risk' person, with an average score of 3.8, and their overall recidivism rate is 11.5%. He stated that a 'moderate' person would be anyone with a risk score of up to 12 points, with an average score of 9.6, and their overall recidivism rate is 26%. He explained that 'high risk' now begins at 13 points, and they have a recidivism rate of 38%. He stated with the modified risk levels, this gives a much stronger correlation, and the instrument is better able to identify low, moderate, and high-risk candidates for parole.

Dr. Austin proceeded to the next slide. He explained the table comparing the current and revised cut-off points and recidivism rates. He stated that these changes are very reasonable and will give the Board confidence that when the instrument says someone is low-risk, the Board will know they are truly low-risk. He further went on to explain that the overall recidivism rate is low compared to other states.

Dr. Austin recommended that the cut-off points be modified by assigning a total point of 7 to the moderate risk level and a total point score of 13 be assigned to the high-risk level. He also recommended that "high risk" be replaced with "higher risk" since the majority of released prisoners do not return to prison within three years. He recommended that when the Board does release someone in the "higher risk" category, they require specialized supervision and/or re-entry services that might help moderate their risk level. He stated these recommendations should not negatively impact the current parole grant rate of about 65% which is appropriate given the current recidivism rate of 26%.

Dr. Austin concluded his presentation by reiterating that the risk assessment is working well for the Board but recommends these minor tweaks and asked if any of the Board members had any questions.

Commissioner Jackson thanked Dr. Austin for his work on the revalidation study as the Board relies quite heavily on the risk assessment instrument. She stated she liked the recommendations.

Commissioner Baker thanked Dr. Austin for sharing how Nevada compared to other jurisdictions. Dr. Austin stated that the Board's grant rate is where it should be given the recidivism rate and that the Board is following the risk assessment instrument.

Commissioner Weisenthal agreed with what the other commissioners said. He stated that he did not feel like the word change from 'high' to 'higher' was necessary and that he was comfortable with 'low,' 'moderate,' and 'high.'

Chairman DeRiccio stated that while the Board uses this risk assessment, the Nevada Department of Corrections (NDOC) and the Division of Parole and Probation (P&P) uses their own risk and needs assessments, such as the NRAS which is based off of the ORAS. He stated that as a part of these assessments, this determines what level of supervision an offender might need. He stated that Dr. Austin's recommendation about the level of supervision might be difficult due to pending legislation. He stated AB32 is currently moving through the Legislature but has not been signed off on yet. He stated per this pending legislation, a parolee's supervision level will be set by P&P's risk assessment and not by the Board.

Commissioner Christiansen stated that he appreciates Dr. Austin's presentation and that it gives him confidence that the Board is doing things right. He agreed with Commissioner Weisenthal that he did not know if the change from 'high' to 'higher' was necessary.

Commissioner Bailey agreed with Commissioner Christiansen.

Dr. Austin stated that regarding ‘high’ versus ‘higher,’ he recommended the change because he does not want the Board to think that ‘high risk’ means do not parole. He stated that the Board should keep in their minds what the recidivism rate actually is for ‘high risk’ candidates, approximately 40%. He stated that while this rate is substantially higher than low risk candidates, most of these people will not come back to prison.

Dr. Austin agreed with Chairman DeRicco’s comment about the risk and needs assessment. He stated that the Board’s primary decision is a release decision, and that supervision is up to P&P. He stated that conduct while incarcerated and participation in programs are two things that can help mitigate a person’s recidivism and that it should be communicated to the prison population that the Board does look at those things and that they will be assessed on those factors.

Commissioner Jackson stated that she will oftentimes see ‘high risk’ and deny parole. However, she stated that the risk assessment couples the risk level with the offense severity, and the guideline recommendation will be to ‘consider factors’ and not just deny parole. She also stated that there is high, like ‘14,’ and there is higher, like ‘18.’

Commissioner Baker agreed with Commissioner Jackson in that she will sometimes see ‘high risk’ coupled with the offense severity and deny parole. She reiterated that two-thirds of the inmates in the ‘high risk’ category will not come back to prison in the 36 months. She stated that she likes the change in wording from ‘high’ to ‘higher,’ but is fine with no changes as long as everyone on the Board understands its meaning and how it is viewed.

Chairman DeRicco stated that at last month’s meeting he asked if ‘low risk’ should be changed to ‘lower risk’ and the answer was “no.” He stated that since that was not the case, he asked if the Board should keep the wording as ‘low,’ ‘moderate,’ and ‘high’ with the understanding that two-thirds of the high-risk candidates will be successful on parole. The commissioners agreed.

There was no further discussion.

<b>Motion:</b>	<b>The Board has determined that we have certified standards that are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law when parole is granted or continued. However, improvements to this tool should be made based upon the JFA report and results. As a result, I recommend that the Board change the current risk assessment instrument so that the risk level cutoff points be adjusted so that 6 and below is equated to a low risk, 7 to 12 as a moderate risk, and 13 and above be considered a high risk. Additionally, that the Board accept the Risk Assessment as valid, and implement the changes as recommended, as soon as possible.</b>
<b>Made:</b>	<b>Chairman DeRicco</b>
<b>Seconded By:</b>	<b>Commissioner Christiansen</b>
<b>Votes in Favor:</b>	<b>DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey</b>
<b>Votes Opposed:</b>	<b>None</b>
<b>Results:</b>	<b>Motion passed</b>

- V. **Public Comment.** No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

- VI. **For possible action:** The Board may act to adjourn the meeting.

<b>Motion:</b>	<b>To adjourn the May 31, 2023, meeting of the Nevada Board of Parole Commissioners.</b>
<b>Made:</b>	<b>Chairman DeRicco</b>
<b>Seconded By:</b>	<b>Commissioner Jackson</b>
<b>Votes in Favor:</b>	<b>DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey</b>
<b>Votes Opposed:</b>	<b>None</b>
<b>Results:</b>	<b>Motion passed</b>