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NEVADA BOARD OF PAROLE COMMISSIONERS

MINUTES Of the meeting of the BOARD OF PAROLE COMMISSIONERS

October 29, 2012

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 October 29, 2012, beginning at 4:00 pm 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., video conference to Parole Board Office, 4000 S. Eastern Avenue, Ste. 130, Las Vegas, NV.

I. **Open Meeting, Call to order, roll call 4:00 p.m.**

The meeting was called to order by Chairman Bisbee. Present in Carson City were Chairman Bisbee, Commissioner Corda and Commissioner Endel. Present in Las Vegas were, Commissioner Keeler, Commissioner Silva and Commissioner Gray.

Support staff in attendance:

David Smith, Hearing Examiner II
Denise Davis, Executive Secretary
Alan Jordan, Management Analyst III
Teres Dawson, Administrative Assistant I

Members of the public present in Carson City included:

Wesley Goetz
Kim Peterson, Nevada Department of Corrections
Dr. James Austin, President of JFA

Members of the public present in Las Vegas included:

Darcy Edwards, Nevada Department of Corrections, Substance Abuse

Roy Hookham, Psychologist III, Department of Corrections
Greg Cox, Director of Nevada Department of Corrections
Mercedes Maharis, Past Director of NV Cure

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.

Chairman Bisbee asked any member of the public that would like to make comments regarding anything other than the items listed on the agenda to come forward and limit their comments to 3 minutes. Chairman Bisbee reminded the public that no action can be taken under this item.

Public comment – Carson City, NV

Wesley Goetz stated that he has researched Senate Bill 99 (SB99). Chairman Bisbee reminded Mr. Goetz that this portion of the meeting was for general comments. Mr. Goetz proceeded that he has researched treatments for mentally ill sexual offenders that are in prison. He then stated that he has been in prison and feels the programs that are offered are a farce. He explained that he feels that the programs for sex offenders should be morally developed and more qualified programs that reduce the Tier Assessment score and recidivism rate. Mr. Goetz then relayed that the only way to do this was to have qualified licensed Psychologists licensed by the State of Nevada that can conduct psychosexual evaluations and can provide treatment inside the prison. Mr. Goetz offered suggestions on how to do this that is affordable to the State.

Chairman Bisbee then acknowledged that Mr. Goetz's time was up but that he would be given another opportunity to speak more on this subject under the programs portion of the agenda. Chairman Bisbee thanked Mr. Goetz for his comments.

Public comment – Las Vegas

No comment was made.

III. For possible action. Comprehensive Review of Parole Standards (NRS 213.10885).

Chairman Bisbee called on Dr. Austin to present his final report.

Dr. James Austin remarked that he is contracted through the Parole Board to re-validate the Risk Assessment which is used for making parole decisions. He stated that this is a task in re-validating the factors which the Board uses to produce a risk factor. There are two types of factors used, static factors and dynamic factors. Dr. Austin declared that what they do is get a cohort of inmates that have been released regardless if they were released on parole or upon expiration, and then review the risk assessment attached to these inmates. They are followed for a period of time (ideally three years). This study sees if the factors that the Board utilizes are associated or related to recidivism within 3 years. This study was based on 5,693 prisoners that were released in 2009, that were followed for a two year period. He stated there are 3 measures of recidivism that various researchers will use in their studies. The most common and easiest to use is whether the prisoner return to prison for a new crime or a technical violation during the tracked period of time. The other two measures are more complicated and difficult to collect. The second measure is whether the person was

convicted of a new crime regardless of returning to prison. The third measure is whether they were rearrested regardless of being convicted, returning to prison, or being placed on probation. He stated that because of limitations of time, money and resources Nevada typically uses the return to prison measure. The return to prison recidivism rate from the cohort used in 2009 was 22.6%. Of this 10% were returned to prison because they were convicted of a new crime and received a new prison sentence. 12.4% were returned to prison for a technical parole violation. The national average of recidivism produced by the Federal Government of all the states is 40-45%. Nevada has a high success rate of people not returning to prison. This may be because of who is coming to prison. Nevada has a particularly high number of people that live in California. If they return to California and are rearrested and returned to prison in California they would not be picked in this analysis. The second reason is that illegal immigrants are deported to their homeland countries. The Nevada Department of Corrections conducted a 3 year follow up of prisoners released with the findings of a 27% recidivism rate. Dr. Austin stated the Static Factors on the Risk Assessment are predictive. The Dynamic factors are where we are starting to see some of the issues with the current system. Dr. Austin affirmed that the risk instrument is working in general but it has some weaknesses which are limited to the Dynamic factors that are presently being used. Dr. Austin stated that his major conclusions are that the Nevada Parole Board uses the Risk Assessment to render its parole decisions and Nevada parole grant rate is 60 plus percent. Dr. Austin confirmed this is a proper grant rate given the risk levels of these inmates.

Dr. Austin is recommending that inmate custody classification on the Risk Assessment to remain as it remains a strong indicator of the inmate's willingness and ability to conform to Correction's rules and policies and in the previous studies that he has done it has shown to be predictive.

Dr. Austin explained that inmate misconduct should be modified so that it is an ordinal variable. He then explained the new proposed scoring and how it is ranked.

Dr. Austin declared that treatment programs have continued to be an issue in terms of demonstrating their ability to reduce recidivism. He has discussed this issue with the Chairman of the Parole Board and Nevada Department of Corrections and they came to an agreement that Nevada Department of Corrections will provide a list of certified treatment programs. The Doctor then stated once Nevada Department of Corrections provides this list the inmate should receive a deduction of a point for completing a certified treatment program, high school diploma, GED, or vocational training program.

Dr. Austin explained that the issues with gang membership were that the Risk Assessment scored suspects and by eliminating suspects that you would get a valid recidivism predictor on this item.

Dr. Austin provided his recommendation that the Board adjust the Risk levels. Low Risk would be 5 points or less, Moderate Risk is 6-11, and High Risk is 12 or more. He explained that even High Risk inmates have a low recidivism rate of returning to prison within three years.

Commissioner Keeler questioned how reliable the tests were from The Nevada Department of Corrections and JAC because Nevada was a transient state. Commissioner Keeler provided examples and stated our State population is dwindling.

Dr. Austin replied you would have to track these people in particular the returns to California and to what extent that they have been incarcerated in their State's prison. Dr. Austin relayed that they can not do this in this study since they do not have the information but

could be done this in a subsequent study given access to the information. Dr. Austin stated that once you parole someone in the state of Nevada the chances of them getting re-incarcerated in the State of Nevada are low.

Commissioner Keeler replied that this very clear but we do not want to parole someone that will commit crimes in our neighboring states. He continued by stating this was a missing piece of information that is impossible to collect from any jurisdiction unless you had a Federal study.

Dr. Austin answered by stating that the Federal studies are coming out by the Bureau of Justice Statistics. They have been working on this process since 1994 and are supposedly getting close to track anyone if they were re-incarcerated or rearrested. When they are able to do this then he would have answers to Commissioner Keeler's questions.

Commissioner Keeler questioned the risk factor on High Risk and an inmate being denied and if this was being considered in the study.

Dr. Austin stated that it was the Board's judgment based on factors like family support and parole plan.

Dr. Austin replied that the major change would be from moderate to low and there will only be a slight adjustment on the high group.

Chairman Bisbee acknowledged that ultimately it's the Boards' discretion and decision whether to grant or deny in all cases. She continued that she believes we have a valid instrument with some tweaks for use on Nevada inmates.

Dr. Austin confirmed that this instrument was valid.

Chairman Bisbee called for Ms. Kim Peterson and if she has any statement on behalf of the Department of Corrections in terms of programs.

Ms. Peterson said that she has gone through CPM management program and her report was on the recidivism rates and what we need to do to improve this rate. This was very similar to Dr. Austin's report. Ms. Peterson went into detail of the cost saving of programs for the state.

Director Greg Cox stated that he would agree with Dr. Austin's report on the removal of gang suspect on the Risk Assessment. Director Cox continued by stating they continue to move forward in performance based measures and providing programs to those who need it. Director Cox then stated the Board is doing a good job of paroling people who need to be paroled and the Nevada Department of Corrections is also doing a good job. The Director then stated that he really believes what Nevada Department of Corrections is doing with education, substance abuse, and looking at their programs with the stand point of what works will result in a drop in the recidivism rate which saves the taxpayers money. Director Cox acknowledged that we are going in the right direction and will certainly work with the Board to implement Dr. Austin's recommendations.

Darcy Edwards introduced herself and stated that she has found the Nevada Department of Corrections has little pieces of evidence based practices and were headed in the right direction but brought in an objective neutral evaluator that stated they could do a better job. Dr. Edwards stated that they are scheduled to be re-evaluated soon maybe around the first of the year. She stated one of the key things they are doing here is instituting quality

assurance programs and processes so we make sure that we do maintain fidelity to the model.

Chairman Bisbee thanked Dr. Edwards and acknowledged she had the pleasure of attending the Prison Board meeting and heard the presentation by Dr. Edwards and Ms. Peterson and it is exactly along the lines of what the Board has been hoping for. The Board will work closely with The Nevada Department of Corrections as the programs come on board by adding them to the Risk Assessment credits. Chairman Bisbee continued by stating she appreciated everyone being present at this meeting. Chairman Bisbee called for public comments on this item.

Mercedes Maharis introduced herself, thanked the Board for having this meeting, and proclaimed that she knows the Board has concerns about people being healthy enough to be able to return to society. She declared her question is that she is concerned about the static risk factors on the Risk Assessment. The factors have been questioned in Western Australia because they seem to negate inmate's ability of many human beings, in fact most human beings to make change. Ms. Maharis preceded by listing her concerns with the Risk Assessment and the assessment used by the Psych Panel because it perhaps creates an unconscious bias. She also stated that she wonders if the lack of treatment for sex offenders which has been consistently available in the Nevada Department of Corrections, for many reasons is increasing prison sentences. Ms. Maharis continued by relaying that she would not like to see a sex offender expire their term without having treatment on why they offended.

Chairman Bisbee thanked Ms. Maharis for her comments.

Wesley Goetz read from a study in 1997 on SB 99. Mr. Goetz stated he believes that treatment programs in the prison system should have a person that is competent in the area that they are treating and those conducting psychosexual evaluations and sex offender treatment should have specific training. He affirmed that when he was in prison he attended about 9 different programs and they were lead by inmates.

Chairman Bisbee thanked Mr. Goetz for his comments

Chairman Bisbee asked David Smith to speak about the implementation of changes to the Risk instrument if adopted by the Board.

David Smith introduced himself and described in detail the major changes with the Risk Assessment regarding the points. Mr. Smith stated he has been working with MIS and they will test the new Risk Assessment. Mr. Smith went into detail of the time frame until the Risk Assessment is available and how this process is done. Mr. Smith explained the procedures on how to correct the current Risk Assessment until the program changes are available.

Chairman Bisbee restated the procedure if the changes are made to the Risk Assessment.

Chairman Bisbee asked if the Board would like to entertain a motion on the re-validation of the Risk Assessment instrument.

Commissioner Keeler stated he opposes the changes to the outline of the Risk Assessment being change to 12 for High Risk but accepts all other parts of it. He would have liked to discuss his concerns prior to the meeting of the Board.

Chairman Bisbee stated that since we are subject to Open Meeting Law, they can not have a private discussion prior to a meeting of the Board.

Commissioner Keeler replied that he does not see the change to the point system on the Risk Assessment of 12 or higher being High Risk being prudent until there are more studies done.

Commissioner Corda made a statement that changing the point value of High Risk by one does not adversely impact recidivism in accordance with Dr. Austin's study.

Motion: Accept and implement the recommended changes as put forward by Dr. Austin

Made by: Commissioner Silva

Seconded by: Commissioner Endel

Votes in Favor: Gray, Keeler, Silva, Bisbee, Corda, and Endel

Votes Opposed: Commissioner Keeler

Motion: The Board has determined that 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.

Made by: Commissioner Endel

Seconded by: Commissioner Corda

Votes in Favor: Bisbee, Endel, Corda, Silva, and Gray

Votes Opposed: None

Commissioner Keeler abstained.

IV. Review/Approval of proposed changes to the Operation of the Board.

Chairman Bisbee described in detail the proposed changes and the reasons.

Commissioner Corda stated that on page 10 on the Operation of the Board the proposed changes would eliminate psych panels on sex offenders in subsection 2, however, the Board would still require a psych panel.

Chairman Bisbee concurred with Commissioner Corda.

David Smith discussed this and stated that he would correct this issue.

Chairman Bisbee asked if any member of the public that would like to make comments regarding this item number

Public comment – Carson City, NV

None were made.

Public comment – Las Vegas, NV

Mercedes Maharis stated she has deep concerns with the Psych Panel and she hopes the Board will look at her report before the upcoming legislature convening.

Chairman Bisbee thanked Ms. Mahris

Motion: That the draft Operations of the Board are adopted and updated as to statutory references (as a result of changes made during the 2011 legislative session); clarification on case hearing representative; clarification on the handling of split votes by commissioners; and, procedures related to parole grants to sex offenders and psychological review panel reports as the result of change made during the 2011 legislative session to include the items Commissioner Corda made and allow Mr. David Smith to update the verbiage.

Made by: Commissioner Keeler

Seconded by: Commissioner Corda

Votes in Favor: Gray, Keeler, Silva, Bisbee, Endel, and Corda

Votes Opposed: None

V. For possible action: The Board may act to adjourn

Motion: To adjourn the meeting on October 29, 2012

Made by: Commissioner Gray

Seconded by: Commissioner Silva

Votes in Favor: Gray, Keeler, Silva, Bisbee, Endel, Jackson, Corda

Votes Opposed: None

Meeting adjourned at 5:21 p.m.