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NEVADA BOARD OF PAROLE COMMISSIONERS

MINUTES

Meeting of the

Board of Parole Commissioners

November 30, 2022

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 November 30, 2022, beginning at 1:00 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, 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 1:00 PM.

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
- Mary Flores, Administrative Assistant III

Members of the public present in Carson City included:

- Katie Brady, Deputy Attorney General
- Keibi Mejia

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 May 31, 2022, Board meeting.

Commissioner Weisenthal stated he is listed as “Chairman Weisenthal” under Agenda Item I.

Motion:	Approve the minutes from the May 31, 2022, Board meeting as corrected.
Made:	Commissioner Baker
Seconded By:	Commissioner Weisenthal
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed

IV. For discussion and possible action: The Board will discuss and may act regarding how our technological upgrades and changes may or may not affect our hearings moving forward and consider potential benefits and limitations with this new and evolving technology. The Board will also discuss and may act regarding how the hearing process may change out of necessity as a result of the new technology, specifically regarding testimony in this new format.

Chairman DeRicco opened this agenda item by stating that the Board has started the transition from Polycom to Microsoft Teams video conferencing equipment. He stated that this will be beneficial to the Board for many reasons. He explained that the new equipment will be supported by EITS, which is not the case with the equipment now. He also explained that with any change or upgrade to our equipment, the Board will likely go through some growing pains. However, he stated that he does not see the transition lasting too long as he had been working behind the scenes with EITS and office staff to minimize the growing pains. He stated that there will be a change in process as to how the Board schedules and records hearings. He stated that the Board has been using a program called For the Record to record hearings, but anytime a software upgrade for this program is released, it causes the Board significant headaches and that Teams conferencing will alleviate this.

Chairman DeRicco stated that the process for conducting hearings will not change, rather just the technology. He stated the Board will not conduct “three-way” video hearings, but this new equipment will allow the Board to have some options. He stated that as the Board knows, victims have certain state and statutory rights regarding testifying at a hearing. He explained that moving forward operationally, victims will be allowed to testify in person at a hearing, or by phone, with prior approval. He stated that later in the agenda was a proposed revision about testimony that the Board would look at to review and adopt. He also stated that with the newer technology the Board and anyone wishing to attend a hearing needs to understand that they may be captured on audio or video if they are present, and that the Board cannot maintain confidentiality in these instances. He stated the only way to ensure victim confidentiality is for a victim to speak with a commissioner by phone prior to a hearing, or to submit written documentation. He also stated that additionally, the Board may permit (at their discretion) victims, direct family members of victims, representatives of the inmate, judges, district attorney representatives, law enforcement, defense counsel, or any other party to speak at a hearing by phone as necessary. He further stated that in order to maintain control at hearings, supporters will need to be present to testify. He stated that verbal testimony is recommended to occur in person, but the Board may approve it for others, as necessary, except for supporters.

Chairman DeRicco stated that he plans to move slowly with this new technology and that at this time, the Board will only allow phone connections to the new equipment, not video. He explained that the Board controls these hearings, and that he believes the Board needs to evolve slowly and expand the capabilities once it is determined how the new equipment is working out. He stated that he envisions staff making the necessary approved phone contact prior to the hearing, when necessary, to better control who is in our hearing and so that the Board does not have several callers on the line, where staff then has to determine who the callers are and which case they belong to. He stated that he believes this should smooth out the process for previously authorized phone testimony. He also stated that he recommends that unless an individual is providing testimony, the Board should not allow individuals on the phone just to listen to hearings. He explained that this will create a logistical problem for the Board in between hearings in getting individuals on the line for a hearing. He concluded that if a victim had been previously approved by the Board for phone testimony, the Board will generally accommodate, but only for testimony, and not just to listen. He stated that recorded hearings can be requested after the fact, and as hearings are open to the public, anyone can show up to attend and listen.

Chairman DeRicco opened up this agenda item for discussion.

Commissioner Jackson expressed concern for panel deliberations and victim testimony.

Chairman DeRicco explained that much like the equipment now, the new equipment has microphones that can be turned on and off for deliberations. He stated the microphones light up green and red for when they are on and off.

Chairman DeRicco stated that much of the work will now fall on the Executive Secretary and her staff to complete the operational part of the change. He further explained that during discussions with staff, the conclusion was that the best way for the Board to maintain control of the hearings, is for staff to call and reach out to victims on the phone when it comes time for that specific hearing and invite them to the hearing, rather than they call in. He explained this way, the Board will know who exactly is on the line, rather than multiple unknown callers. He stated that the Board is looking to follow the state constitution, statutes, and upgrade technology that will be better and supported.

Commissioner Jackson asked if the new equipment would be able to accommodate multiple victims. She stated that the technology now only allows two victims to be on the phone at one time.

Chairman DeRicco responded that the new equipment would allow multiple victims. He also expanded that this was carefully considered to only include victims and not supporters. He explained the reason was because there may be multiple supporters wanting to testify, when only one is allowed. He stated that in order for the Board to be able to control their hearings, supporters must be present in order to testify.

There was no further discussion.

V. For discussion and possible action: The Board will discuss and may act to revise the Parole Hearing Participation & Testimony For Victims and Supporters document.

Chairman DeRicco explained that as a result of the previous discussion, the Board will likely need to make changes to this document so that victims, supporters, and others have a better understanding of how parole hearings will work once the new technology is implemented. He stated that counsel has

reviewed the proposed changes to this document as well. Chairman DeRicco then went through the document, and began reading the document from page 3, at the section titled, “Types of Parole Hearings.”

Hearings Examiner II, Kelly Mellinger, stated that she felt the second paragraph under “Attendance & Testimony at Parole Hearings” on page 4 and the second paragraph under “Violation Hearings – Attendance at Parole Board Office or Prison Location” on page 5 contradicted each other. She recommended revising the last sentence of the second paragraph in the section “Attendance & Testimony at Parole Hearings” to, “Any person wishing to attend a parole violation hearing as an observer must appear in person at the designated Panel location, or prison location.” The Board agreed.

Chairman DeRicco continued reading from the document.

Commissioner Christiansen recommended removing the word “this” from the second sentence in the last paragraph on page 5, making the sentence, “This allows information to be relayed to the Board...”. The Board agreed.

Chairman DeRicco continued to read from the document.

After reading the section, “When a Victim Intends to Testify Publicly on the Record,” Chairman DeRicco stated that for discretionary parole hearings the Board is requesting victims contact the office at least seven days prior to the hearing date if they wish to testify by phone, and for parole violation hearings the Board is only requiring victims to give the Board one day notice. He explained this is because the agendas for discretionary hearings come out much sooner and the victims are notified in advance of the hearings, whereas the agendas for parole violation hearings come out much later and there is less time for the victim to be notified. He stated this is the reason for the difference in the day requirement for victims.

Chairman DeRicco continued to read from the document.

Commissioner Baker stated that now the Board allows victims to call in and listen to the hearing, without providing testimony on the record. She asked for clarification that that would no longer be allowed. Chairman DeRicco stated that is what is being proposed because of the new technology, the Board needs to be able to control their hearings and it is unknown what that will look like as of right now. He stated that the Board does not want to impede victim rights in any way. He stated that victims can come to the hearing in person, submit documentation, speak to a commissioner prior to the hearing, and they can contact the Board after the hearing. He stated that if the victim does not want to testify, they can request a copy of the hearing afterward. He stated to have people on the call just listening adds logistically difficulties.

Commissioner Weisenthal stated that sometimes a victim states they want to testify on record but then may change their mind. He asked if the Board could take these by a case-by-case basis. Chairman DeRicco states that is not a problem if they are in person. He further stated that written documentation is the most valuable because then it is in the file for all the commissioners to see, but if a victim wants to go on record, the next best thing is for them to be in front of the Board. However, he stated that if a victim is unable to be in front of the Board, they can choose to testify over the phone. He reiterated that this should only be for victims that are testifying, and not just wanting to listen. Commissioner Christiansen stated that the Board sometimes has high profile cases that thousands of people may want

to listen to. He agreed that the phone should be used for specified victims that want to testify. Chairman DeRicco stated that any person is able to attend parole hearings at the offices within fire code. Chairman DeRicco also stated that there are now televisions in the lobbies in both offices. He stated these were installed in case there is a time that there may be too many people to fit into the hearing room, the lobbies can be used as additional overflow allowing more people to watch the hearing.

Chairman DeRicco continued to read the document.

Chairman DeRicco finished reading and going through the document. He stated that this is an information document that is posted to the Board’s website. He summarized by stating that the main point throughout the revised document is that confidentiality cannot be guaranteed if a person attends a hearing in person or testifies over the phone.

Motion:	Approve the newly titled Parole Hearing Participation & Testimony For Victims, Supporters, and Others as revised.
Made:	Chairman DeRicco
Seconded By:	Commissioner Jackson
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed

VI. For discussion and possible action: The Board will discuss and may take action to update and or modify sections of the “Operation of the Board” document that outlines the procedural functioning of the Board. This document may be updated and modified in the future as needed.

Chairman DeRicco opened this agenda by stating that there were three sections of the Operation of the Board document to be reviewed. He stated that this is a dynamic document and these sections need to be reviewed for possible change in order to keep it up to date. He stated the three sections for review are Parole Hearings, Board Communications, and Violation Hearings in Absentia. He referred to the suggested changes as noted in the handout “Operation of the Board Recommended Changes.”

He read through the first section for review, Parole Hearings. The Board members agreed that the proposed language changes were appropriate.

Chairman DeRicco read through the second section for review, Board Communications. He changed ‘of’ to ‘or’ in section 3. He expanded that this section was included because the Board has seen an increase in large packets submitted by inmate representatives for their hearings. He stated that it was his belief that support staff should not be responsible for printing these large packets, and the Board should not be responsible for the cost of printing these packets. He stated that he felt that 50 pages was a reasonable number of pages.

The third section reviewed was Violation Hearings in Absentia. Chairman DeRicco stated that he explored the legislative history for these types of AB80 hearings. He stated that these hearings are conducted for parolees who pick up another charge in a jurisdiction out of state. These parolees can then request that Nevada review their parole violation in absentia. He stated that typically, if the parolee is going to expire the Nevada term while serving a custodial term in another state, the Board will hear their case in absentia because that is the best option, and the State will not have to pay to extradite this person back for a violation hearing. He stated this language was added to clarify that these hearing will

typically not be held for parolees with a life sentence, because after their custodial term, they will still have time remaining on their sentence to serve for Nevada.

There was no further discussion.

Motion:	Approve the revisions to the Parole Hearings, Board Communications, and Violation Hearings in Absentia sections of the Operation of the Board document.
Made:	Chairman DeRicco
Seconded By:	Commissioner Christiansen
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed

- VII. 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.

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

Motion:	To adjourn the November 30, 2022, meeting of the Nevada Board of Parole Commissioners.
Made:	Commissioner Baker
Seconded By:	Commissioner Jackson
Votes in Favor:	DeRicco, Jackson, Baker, Weisenthal, Christiansen, Bailey
Votes Opposed:	None
Results:	Motion passed