California Rehabilitation Oversight Board Minutes
November 3, 2008 Meeting

The California Rehabilitation Oversight Board (C-ROB) met in open session on November 3, 2008, at the California State Prison, Solano, 2100 Peabody Road, Vacaville, California.

Board members: Present at the meeting was David Shaw, Inspector General (Chairman); Debra Jones, Administrator, Adult Education Programs, California Department of Education (Designee for Superintendent of Public Instruction); Renée Zito, Director, State Department of Alcohol and Drug Programs; Jim Rostron, Chief, Forensic Services Branch (Designee for Stephen Mayberg, Director, Department of Mental Health); Susan Turner, Professor, University of California, Irvine (President of the University of California appointee); Bruce Bikle, Professor, California State University, Sacramento (Chancellor of California State University appointee); Gary Stanton, Sheriff, Solano County (Governor appointee); and William Arroyo, Regional Medical Director, Los Angeles County Department of Mental Health (Speaker of the Assembly appointee). Absent from the meeting was Matthew Cate, Secretary, California Department of Corrections and Rehabilitation (CDCR); José Millan, Vice Chancellor, California Community Colleges (Designee for Chancellor, California Community Colleges); and, Loren Buddress, Chief Probation Officer (Senate Committee on Rules appointee).

Office of the Inspector General staff: Barbara Sheldon, Chief Counsel; Laura Hill, C-ROB Executive Director; and Ann Bordenkircher, C-ROB Secretary.

Panel Presenters: Martin Hoshino, Executive Officer, Board of Parole Hearings (BPH), CDCR; Chris Sisto, Warden, California State Prison, Solano; Rick Winistorfer, Parole Administrator, Division of Adult Parole Operations (DAPO), CDCR; Kathy Jett, Undersecretary, Adult Programs, CDCR; Carole Hood, Chief Deputy Secretary, Adult Programs, CDCR; Michael Valdez, Supervisor, Vocational Instruction, CDCR; Vince Cullen, Associate Warden, California State Prison, Solano; David Illig, Research Program Specialist, CDCR; Karen Hientshcel, Assistant Chief, Offender Programs, CDCR; Thomas Powers, Director, Division of Addiction and Recovery Services (DARS), CDCR; Sol Irving, Correctional Counselor III, DARS, CDCR; Frank Russell, Retired Annuitant, Division of Education, Vocation and Offender Programs, CDCR; and Peggy Ritchie, Program Manager, Office of Program Development and Fidelity, CDCR.

Public Comments: David Warren, Lobbyist, Taxpayers for Improving Public Safety (TiPS); John Kern, Teacher, California State Prison-Solano/Service Employees International Union (SEIU) 1000; Joyce Thomas-Villaronga, Office Technician, California State Prison, Solano/SEIU 1000; Gary Daniel, Teacher, San Quentin State Prison/SEIU 1000; Susan Lawrence, M.D., Executive Director, The Catalyst Foundation; Patrick Wilson, a taxpayer; Lenore Nunez, Public Policy Representative on CDCR issues, SEIU 1000.

Item 1. Call to Order

Chairman Shaw called the meeting to order at 1:48 p.m.

Item 2. Introductions and Establish Quorum

Chairman Shaw introduced the participating staff from the Office of the Inspector General (OIG) and thanked the C-ROB board members for their attendance. The C-ROB board members introduced themselves.

Item 3. Review Agenda

The Chairman assured members of the public that they would have an opportunity to address the C-ROB after each agenda item as well as at the conclusion of the meeting. Chairman Shaw informed the public that the C-ROB would hear updates from Martin Hoshino, Executive Director, BPH, as well as from the CDCR.

Item 4. Review and Approval of Prior Minutes

The minutes from the September 4, 2008 board meeting were unanimously approved on motion made by Member Zito and seconded by Member Jones.

Item 5. Executive Director Update

Laura Hill, the C-ROB Executive Director, presented a chart recapping the C-ROB meeting expenditures for fiscal year (FY) 06/07 ($9,207—partial year) and FY 07/08 ($46,905). Ms. Hill stated that the report-writing subcommittee was discussing the outline for the March 15, 2009, biannual report and solicited formatting comments from board members.

Item 6. Board of Parole Hearings Update

Martin Hoshino, Executive Director, Board of Parole Hearings (BPH) presented an overview of the BPH operation and structure. Mr. Hoshino stated that the BPH mission is to protect and preserve public safety and protect the due process rights of prisoners and parolees under its jurisdiction. He stated that the most visible functions are the suitability hearings for life term prisoners, parole revocation hearings of parolees, and setting of the terms and conditions of parole and discharge considerations. Other lesser-known functions include investigative work in connection with compassionate releases, clemency requests, foreign prison transfers, and intimate partner battering issues. The BPH consists of executive officers, 12 commissioners, about 90 deputy commissioners, an array of peace officers, and clinical and hearing support staff. Their annual budget appropriations are approximately $116 million. The BPH decisions are made from 249 locations throughout the state. The BPH also operates under court orders coming out of three separate class action lawsuits; *Valdivia, Armstrong*, and *Rutherford/Lugo*.[1]

Mr. Hoshino explained that there are about 30,000 life term inmates currently with a possibility of parole. Of that number, about 9,600 have reached a minimum eligible parole date. When an inmate reaches that point, the inmate has earned the right to have a suitability hearing. In FY 07/08, the BPH held 963 first-time suitability hearings and about 5,600 subsequent hearings that go through the system on a regular basis due to denials, terms, structures and rates. Mr. Hoshino said that the forensic assessment division at the BPH conducted approximately 2,800 psychological evaluations for life term inmates in the same fiscal year, as well as around 1,000 mentally disordered offender annual

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[1] *Valdivia v. Schwarzenegger*, United States District Court, Eastern District of California, Case No. 2:94-cv-671, a federal class-action lawsuit regarding the way California treats persons who are arrested on parole violations;

Armstrong v. Davis, United States District Court, Northern District of California; Case No. 4:94-cv-02307, a class action brought under the Americans with Disabilities Act and the Rehabilitation Act on behalf of inmates and parolees with vision, hearing, mobility, kidney, speech and learning disabilities;

Rutherford/Lugo v. Schwarzenegger, rights of lifers to have their initial and subsequent parole hearings conducted within certain specified time frames.

certification and placement hearings. Out of approximately 143,000 parolees arrested in the FY 07/08, 105,000 were actually sent to the BPH for hearings. Of those, 16,000 were set for revocation hearings.

Mr. Hoshino moved on to explain that disagreements can develop between a recommendation made by CDCR's Division of Adult Parole Operations (DAPO) and decisions made by the BPH. In FY 95/96, there was an agreement rate of about 50 percent. A snapshot taken ten years later, showed an agreement rate of only 20 percent. Slides measuring the current correlation of agreement on priority or serious cases that were referred for revocation and disposition reflect a 90 percent agreement rate. Correlation between non-priority cases referred for revocation is at 85 percent agreement, while recommendations for remedial or alternative sanctions for the same period of time were in agreement roughly 77 percent of the time.[2]

Mr. Hoshino concluded his presentation by stating that the BPH is working hard at focusing on the right issues at the right time. There has been a lot of dialogue with the DAPO on these issues as well as the new parole violation decision-making instrument over the past 18 months. The BPH is focused on building an evidence-based rehabilitation system in California corrections. Mr. Hoshino took questions from the C-ROB on the parole violator decision-making instrument, technical citations, and parole revocations.

Rick Winistorfer, Parole Administrator, DAPO, responded to a question on parole agents revoking parole on technical grounds for being ten or fifteen minutes late to a meeting. He stated there are many things to consider in the process – individual case factors, supervision strategies, extenuating circumstances, and behaviors. Mr. Winistorfer explained that while being late to a parole meeting may seem minor, the behavior that led up to that violation may be a bigger factor in what the agent is attempting to resolve. He stated that while 80,000 parolees may have been returned to state prison for parole violation, parolees may have had violations that were addressed at the parole unit level, and it is because of escalating behavior that parolees are placed back into custody.

Mr. Hoshino and Mr. Winistorfer jointly explained the BPH control versus the DAPO control by explaining that Penal Code sections 3000 and 3001 govern who is on parole and who has allowable discharges. Parole agents manage those on parole, but when a parolee seeks early discharge, or if the BPH has taken an action to revoke or suspend control and issues a warrant for arrest, then that must come before the BPH. Rehabilitative efforts lie with the DAPO as to programming and identifying individuals participating in those programs. When the DAPO has exhausted all alternatives to the rehabilitative process with an individual, then the BPH steps in. Mr. Hoshino interjected that while there is a lot of separation between the DAPO and the BPH, everyone is working together to see that parolees are assigned to the proper place.

Public comment:

Patrick Wilson, a taxpayer, stated concerns with the BPH's lack of humanity, mentioning several high-profile cases where parole was denied. Mr. Wilson believes that while the BPH tries to paint itself as law abiding and doing the right thing, it does not represent the BPH policies.

David Warren, Lobbyist, Taxpayers for Improving Public Safety, stated that Mr. Hoshino's presentation did not address the issue of parolees who come before the BPH but are denied parole

[2] Data presented via PowerPoint® presentation.

because they have not completed specific programs, yet those same programs are very limited and not always available to the inmate.

Item 7. Solano Proof Project Tour Discussion and Progress Report from the California Department of Corrections and Rehabilitation on other Rehabilitation-Related Efforts

Several of the C-ROB members, as well as interested persons from the general public, participated in an early morning tour of the Solano Proof Project,[3] led by Warden Chris Sisto and several Solano staff. Warden Sisto then addressed the board at the afternoon board meeting commenting on the major changes in the way the institution is run today compared with three or four years ago. The Warden emphasized the reduction in lockdowns, racial riots, and better gang management. He stated pride in the institution, the staff, and the work performed there. The Warden commented on how staff successfully worked through space, funding, and staffing barriers using existing resources. Warden Sisto expressed belief that CSP-Solano is ready for AB 900 programming.

Warden Sisto listened to C-ROB member comments on information received from institution staff members during the tour. Institution staff suggested the C-ROB should speak to staff doing the work at the institution because upper level mangers do not have a good sense of what actually occurs. Warden Sisto encouraged the C-ROB members to talk to staff or inmates, and invited the C-ROB to visit a wardens' forum or watch a wardens' forum video.

Public comment:

Patrick Wilson, a taxpayer, inquired about an institutional-wide incident where prisoners staged a work strike protesting cutbacks to their yard access.

Warden Sisto responded that management had to change yard access in order to lower the violence that was occurring. He said a team, including the MAC (inmate representative), met and determined to reduce the number of inmates placed on the yard at any given time to a more manageable number.

Kathy Jett, Undersecretary, Adult Programs, CDCR, thanked Warden Sisto, Vince Cullen and Mike Valdez for their work at CSP-Solano.

Carole Hood, Chief Deputy Secretary, Adult Programs, CDCR, stated that the majority of today's presentation would be given by various team members, who have hands-on experience in the various implementations to date. Ms. Hood indicated there would be presentations on Track 1 (implantation of new programs) and Track 2 (Proof Project), programs, performance outcome areas, and training.

Mike Valdez, Supervisor of Vocational Instruction, addressed Track 1 progress stating that institutional programs were inventoried as to subject, teacher assignment, and hours of operation. They looked at all institutional operations in 15 minute segments to determine conflicts. Programs and staff were considered in eight- or ten-hour segments. The institution made changes using existing resources to expand program coverage to full days. Another analysis freed up classroom space for inmates needing

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[3] The Solano Proof Project is part of the "Pathways to Rehabilitation" project recommended by Governor Arnold Schwarzenegger's Strike Teams on prison reform, and is consistent with recommendations made by the Expert Panel that was convened to review rehabilitation in California. It is a means for implementing effective rehabilitation programs in a coordinated manner throughout CDCR. California State Prison, Solano was selected as the demonstration site for a general population prison as part of the project.

Thomas Powers, Director, Division of Addictions and Recovery Services (DARS), advised the board concerning the Central Services Substance Abuse Program modular, one of the new buildings viewed during the morning tour, which is an effort to create a therapeutic environment. The modular includes 6,900 square feet for group therapy, offices, and individual counseling rooms. Mr. Powers stated that COMPAS results reflect that 75 percent of inmates need substance abuse addiction services. The CDCR also has a new program model for women that is gender specific.

Sol Irving, Correctional Counselor III, DARS, stated that the DARS has contracted to provide a cognitive behavior therapy model that will be tested on 2,400 lifer inmates at CSP-Solano. Fifty of those lifer inmates will be trained for seven months to be certified treatment counselors. CSP-Solano is in the selection process and hopes to start training by December 1, 2008.

Frank Russell, Retired Annuitant, Division of Education, Vocation and Offender Programs, CDCR, talked about the training of 52,000 CDCR employees. Mr. Russell anticipates on varying levels, a basic orientation of all staff, conducting an executive overview, an introduction to cognitive behavioral methods, and a roll out of motivational interviewing methods. A more intensive training is planned for the clinical staff. Mr. Russell concluded by saying the University of Cincinnati will conduct training in reception centers, California community colleges will do the motivational interviewing, and the University of California, Davis, will conduct the advanced clinical training.

Peggy Ritchie, Program Manager, Office of Program Development and Fidelity, CDCR, spoke concerning combined efforts of her office and the Office of Research in working on a performance measure for all aspects of the California Logic Model for each of the key program areas. Ms. Ritchie said they are looking at national models on how to implement evidence-based programming, and how to oversee and monitor the implementation as well. Ms. Ritchie stated that while the Office of Research has the role of evaluating programs, her office also works to ensure that a program is being implemented the way it should be. This process is often done through informal surveys and focus groups. Ms. Ritchie anticipates the Office of Research will conduct outcome evaluations to determine effects of these treatments.

Public comments:

John Kern, Teacher, CDCR, stated that he has taught vocational education in the correctional setting for 24 years. He appears before the board courtesy of the SEIU to say that institutional teachers feel out of the loop, neglected, and uninformed. Mr. Kern toured several classrooms this morning, each consisting of about 12 to 16 inmates, due to space limitations. Mr. Kern reported that one classroom was only 341 square feet. An auto body vocational shop was without electricity or air lines, which drives almost everything in that trade. He said he also received curriculum complaints during the tour. In closing, Mr. Kern noted that in his opinion, inmates need incentives and the Legislature should be prompted to create realistic incentive programs.

Joyce Thomas-Villaronga, Office Technician, CSP-Solano, stated she has worked at CSP-Solano for about 25 years, currently in the office that assigns inmates to specific programs. She said often important information, such as TABE scores or parole dates, is missing, and some information does not match up at all. Ms. Thomas-Villaronga stated that the classification committee does not receive input from education representatives. Mrs. Thomas-Villaronga believes all of this together keeps an inmate from being placed in appropriate programming. Ms. Thomas-Villaronga has talked to the educators, who are not included in discussion, about making a program work successfully.

roadmap to real reform in the CDCR. Dr. Lawrence welcomed an opportunity to present ways that the CDCR could utilize the concepts of the Honor Program.

Patrick Wilson, a taxpayer, asked for an opportunity to demonstrate why three definitions in the legal system and the CDCR are fraudulent. Mr. Wilson said that when reason is applied to these false definitions, the CDCR will continue to dysfunction and come to wrong conclusions. He believes the information he has to share is relevant to the rehabilitative efforts that the CDCR and the C-ROB claim should be taken seriously.

John Kern, Teacher, CDCR, touched briefly on a July 15, 2008, C-ROB biannual report recommendation of awarding earned credits to offenders who complete any rehabilitation program in prison and on parole. Mr. Kern explained that "X" time is time inmates are present in an assignment and "S" time is when they are absent from that same assignment through no fault of their own, such as a lockdown or modified programs. The process was that "X" and "S" times were added together in order to give inmates a correct release date. Mr. Kern stated that nowadays it is almost completely irrelevant to the inmates that there is "X" and "S" time accumulation, and it has become a ridiculous metric for measuring the work of the teachers. Mr. Kern believes there is a misunderstanding in terms of what it means to utilize a program.

Lenore Nunez, Public Policy Representative on CDCR Issues for SEIU 1000, extended an invitation to the board to hear from institutional teachers about academic rehabilitative programs. Ms. Nunez stated that teachers who wanted to appear before the C-ROB today were denied state leave and union time.

Item 11. Adjournment

There being no further business, the meeting adjourned at approximately 4:45 p.m.

Ann Bordenkircher — February 11, 2009

C-ROB Secretary — Dated

(Board approved with word change to public comment section, pages 7 and 8 as noted in 2-11-09 transcript)

(These Minutes are posted on the web at www.oig.ca.gov.)