



STATE OF IDAHO

COMMISSION OF PARDONS AND PAROLE

C.L. "Butch" Otter
Governor

Sandy Jones
Executive Director

Quarterly Business Meeting
January 15, 2016
Commission of Pardons and Parole
Conference Room
3056 Elder, Boise, ID

Commissioners Present:

Lisa Bostaph
Janie Dressen
Mike Matthews
R. David Moore

Commission Staff Present:

Sandy Jones, Executive Director
Jarod Cash, Hearing Officer Manager
Connie Morgan, Hearings Manager
Maria Young, Administrative Assistant

Others Present:

Judge Barry Wood, Interim Deputy Administrative Director of Courts
Judge Patrick H. Owen, Fourth Judicial District Court
Kerry Hong, Director of Community and Family Justice Services
Ashley Dowell, IDOC Deputy Chief of Prisons

- I. Executive Director Jones called the meeting to order at 08:38.
 - Welcome guests

- II. Judge Wood and Judge Owen
 - Keeping the lines of communication open and conversation open about sentencing with parole violators
 - Question & Answer
 - When the court sentences some to a fixed term and they are under the Commission's purview, what kind of discussion is there about the fixed term?
 - Evaluations conducted and presented highlighting the risk to the community
 - Sentencing proves to be the most difficult
 - In fashioning a decision, there is the fixed portion and an indeterminate portion
 - a. Determinate:
 - i. Consider how long it took to raise children: 20 years is a very long time
 - b. Indeterminate:
 - i. Everything is considered – family support, etc.
 - ii. Every case is different

- Early Discharges: When the Commission considers requests for early discharge, they look at the time left to serve.
 - As a matter of practice, it is a common consideration: with that concept in mind, how do Judges make the determination about the long end of that sentence
 - a. Generally, if the individual has completed ½ their probation time, consideration is given to either ending the probation or putting that person into Court Supervision
 - b. Consideration of early discharges occurs weekly and has been for the last year and one-half in at least one court
 - c. Commissioners view requests for early discharge as one of the most difficult
- Why would two people with similar charges have different indeterminate sentences?
 - No mathematical formula; Risk to reoffend
 - a. If the judge considers that individual dangerous, the fixed time is usually higher
 - b. Possibilities of rehabilitation equal shorter fixed term
 - c. Sexual offenders, those with multiple DUIs will likely have longer fixed terms
 - d. Judges listen to the prosecution, to the defender, and particularly to the defendant
 - i. Express, in the record, what the judge heard and why the sentence is what it is
 - ii. Can modify the term if an individual is sentenced to probation
 - e. Individuals owing restitution may receive longer terms to ensure that restitution is paid
 - Prosecutors have little concept of time
 - a. 5 years fixed is a severe punishment
 - b. No crystal ball: 96% of those before the bench will return to the community
 - The Commission noted that individuals frequently say in Commission hearings that the judge told them at sentencing that if they do “a good fixed” they will be released.
 - a. Neither judge present today has ever felt that or said that
 - b. Have found that parole is more difficult than probation
 - The Commission asked about those coming for sentencing that are also parole violators; hear individuals say that the judge is waiting on the Commission
 - Conversely, the judges hear that the Commission is waiting for the judge
 - a. Court reviews police reports
 - b. Serious offenses do not usually receive probation
 - c. Court reviews the case before them and does not consider what the commission might do
 - d. Whether the individual is currently on parole does figure into the decision being considered
- The Commission asked about Specialty Courts, specifically Veteran's Court
 - If there are parole consequences, the judges will not offer

- Director Jones indicated often the defense will contact the Parole Commission office saying a person is in consideration
 - a. Judges indicated this is likely a case of "wishful thinking"
 - i. Mr. Hong will research
 - ii. If application has been made, an order of conditional acceptance will be issued
 - iii. Ask for Conditional Acceptance order as it shows legitimacy
 - b. Courts ask for a letter from the Parole Commission when told the Parole Commission is awaiting word from the Judge
 - Judges asked if they are doing anything that makes the Commissioners lives more difficult
 - Sentences of 0 Fixed, X Indeterminate: Sentences like this indicate how long the judge feels the individual needs to be incarcerated and that s/he needs to be supervised in the Community
 - Hearings Manager Morgan indicated sentences of 0 to Life are difficult; however, those have been very few
 - a. Judge Wood has never sentenced 0 fixed: there was a chart in IDAPA that is no longer available
 - b. Appears the court wants Parole supervision vs. Probation supervision as there are more severe reactions on Parole than on Probation
 - The Commission noted they have begun to see offenders that are already in their pathway programming and that makes it easier to adjust the line of questioning during the hearing.
 - Judge Wood is still advocating that those convicted of sexual offenses go through the RDU process and be evaluated by the same evaluators with the same battery of tests for a proper evaluation as they have seen a wide variance with the competency of evaluators
 - Commission asked if they may receive the Psychosexual Evaluation that is completed for the courts
 - a. Judges thought the Commission already received those
 - b. Commission receives a Sexual Offender Risk Assessment (SORA) that is completed by IDOC staff
 - c. Have been told in the past that they cannot receive them
 - d. **Ashley Dowell will speak with IDOC DAG: those evaluations are available in the central files**
 - e. Commission commented that the quality of the evaluations was better during this session than they have been
- Judges Wood and Owen and Mr. Hong departed at approximately 09:30

III. Ashley Dowell, IDOC Deputy Chief of Prisons

- Programming for Low-Risk offenders; asking the Commission for input
 - JPA results indicated low risk offenders are not to be treated, with the exception of sexual offenders, since the potential to make that low-risk offender worse exists
 - Will have low aggregate scores (LSI)
 - Will still be offered education

- Will also be offered the opportunity for “fun” vocational programs
 - Must remain DOR-free for at least 6 months
- Review and placement will occur in RDU
- Based on LSI score
 - LSI is not updated until just before the individual sees the Commission and the assessment is 5 years old or older
 - DORs and poor institutional behavior do not prompt a new LSI
- These offenders will likely see the Commission with no programming
- Parole without the requirement to program
- The offenders could “opt-in” to some programming
- Putting low-risk offenders into cognitive programming could potentially take that seat away from an offender that is at higher risk and needs it more
- Prison is the deterrent
 - There is a consequence for the harm caused
 - Already have a preponderance of pro-social attitudes and orientations
- Director Jones asked for the percentages of those that are low risk
 - 192 Offenders are considered Low Risk, or approximately 3%
 - Low-Risk Riders will receive programming, in accordance with the requests of the judiciary
- Pathways are going away
 - Moving toward an individual treatment option
 - Adopting the University of Cincinnati Substance Abuse Curriculum
 - Will have practical use tools
 - Advanced practice curriculum can be used in the community with Probation and Parole
 - Begin training staff in January
 - Thinking for a Change will be the cognitive programming
 - Also has an advanced module
 - Staff will be re-trained during the Spring of 2016
 - Looking for Sex Offender Treatment
 - University of Cincinnati also has a Sex Offender treatment
 - Will be delivered by IDOC DARS with oversight by clinicians
 - Canadian model for sex offender treatment
 - Very expensive (gold standard)
 - Taking parts of Canadian model and parts of the UC model
 - UC Training is expensive, but after the training, it is public domain
 - SANE will no longer be available in the institutions
 - Programming is outdated, but IDOC programs are also outdated
 - All programs will be delivered by IDOC staff
 - Low risk sex offenders account for about 40% of the sex offender population
 - CSG met with the SOMB
 - There is money for Substance Abuse (SUD)
 - Nothing is available for Sex offenders
 - SOMB appears receptive to this line of thought
 - Also looking at Aggression Replacement Training
 - If Anger Management isn't a deterrent, why spend money on it?
 - a. CSG opined they believe it wiser to offer, than not

- Commission would prefer to see programs that reduce hostility toward women
 - IDOC indicated they can look at that, though it has often been the practice that batterers treatment is not offered “behind the wire” as it has been felt that prison is not the place to address domestic violence
 - Domestic Violence is situational and a “couples” issue
 - Research indicates there is no difference between the 52-week program and the 26 week program
 - a. The 52 week program, though, does keep the batterer within the purview of the instructor
 - Ms. Dowell will forward information to the Commission when she has it
 - New programs will be instituted this spring
 - Director Jones has sent a memo to the population indicating all offenders need to complete any programming they are instructed to complete by IDOC staff
- Director Jones received information indicating the SUD services will begin allowing up to 14 days residential treatment services in the community
- IV. **Commissioner Bostaph motioned to approve the minutes from the October 24, 2015 Business Meeting. Commissioner Dressen seconded the motion and all Commissioners present voted aye.**
- V. Executive Director’s Report and General Commission Business
- Sanctions – Effective October 1, 2015
 - First violation = 90 days
 - Second violation = 180 days
 - Had to figure how to consistently impose the “up to” part
 - Have discretion for 30 days “good time” to incentivize behavior
 - No good way to make that happen
 - Violations Hearing Officer gives the offender ALL of the information
 - Process:
 - PO submits Report of Violation
 - Parole Commission determines sanction
 - Paperwork goes to offender
 - a. May waive or plead guilty to the violation
 - b. Hearing officer visits and imposes sanction
 - c. **Offender cannot refuse sanction**
 - i. Can refuse to waive the hearing
 - ii. Still receive sanction
 - iii. They do not have the option to refuse the sanction
 - d. All staff are aware and make that known
 - IDOC does not currently have a mechanism in place to monitor when these individuals should be released
 - 73 people
 - IDOC wanted the Commission to track
 - IDOC is housing and should track the release
 - Treatment
 - No requirement in statute
 - Not initially an option

- Has become more complicated as violators are refusing to do any program
 - Now an option for those sanctioned to 180 days
 - Those that were rescinded?
 - IDOC will resolve
- PRE-10/01/2015
 - In October and November, no sanctions were issued
 - As a result, those in December were un-revoked
 - Across-the-board 90/180 sanctions
 - Would have otherwise created chaos
 - Still created many issues in the population
 - Only those un-revoked have a weird full sanction
 - Jarod Cash, Deputy Director and Felicia Forbus, Violations Hearing Officer going to CAPP to explain sanctions
- Some are already coming back for their 2nd sanction
- 3rd time violation goes before the Commission
 - Some are going through their sanction with extremely bad behavior
 - Question: if an offender violates and receives a DOR, can a 2nd violation then be written based on that behavior?
 - a. Checking with legal
 - Commission will see them only after all other options are exhausted
- We do not, and will not, know the impact on staff and workload because of the late-year implementation
 - Currently there aren't many hearings, but there are several sanctions
 - Workload appears to be manageable
 - Releases have doubled since January 2015 to over 200 releases in December 2015 with only one person processing releases
- Commission will begin seeing offenders that have completed programming
- Caution is advised about the wording around absconding; there is a definition and the hearing officers determine if it actually qualifies as absconding
 - Time absconded is not credited and will be added onto the sentence
 - Will be on the time calculation as Fugitive Time
 - Will show parole forfeiture, but it is fugitive time
 - Commissioners will know if there is a previous abscond and the hearing officer will make that clear
 - The 2nd abscond appears before the commission
- Governor recommended our budget
- Will go into JFAC on 2/10/2016
 - Commissioner Bostaph will be speaking to JFAC about what a Commissioner does
 - Director Jones will highlight things accomplished
 - Minutes will be almost complete
 - a. Signing is the bottle-neck now
 - b. Have had IDOC light-duty and contract personnel
 - Public Records requests are processed within the day of receipt or the day after
 - Staffing issues; JRI implementation
 - Budget Request
- Updating rules again to will reflect the changes of JRI that were not ready last year and clarifying language

- IDOC has a responsibility to notify victims when someone escapes
 - That information is maintained within the parole commission office
 - Need to be statutorily able to release that information to IDOC
- Commissioner Bostaph asked about having a former Commissioner fill in, when needed
 - Director Jones noted that was taken out off the table at this groups request
 - Commissioners want the time they are allotted
 - Judges have alternates that are retired justices
- Schedule review to fill Commissioner Scheihing's absence until another commissioner is appointed
 - Modifications made and updated
 - Ms. Young will send it out to Commissioners and staff after meeting
- Reviewed data tracking slides

VI. Executive Session

Commissioner Matthews motioned to move into executive session at 12:22 citing § I.C. 74-206 (1)(g). Motion was seconded by Commissioner Bostaph. All Commissioners present voted aye.

VII. Regular Session

Commissioner Matthews motioned to return to regular session at 12:24 p.m. Seconded by Commissioner Moore; all Commissioners present voted aye.

VIII. Commissioners noted some comments and issues that were documented during the January hearing session

- Deputy Director Cash has already addressed the issues
- Will build a policy
 - Standardized Adobe .pdf form
 - Easier to maneuver
- Will update commissioners with progress

Meeting adjourned at 12:30

Prepared by M. Young, Administrative Assistant