



STATE OF IDAHO

COMMISSION OF PARDONS AND PAROLE

Brad Little
Governor
Ashley Dowell
Executive Director

QUARTERLY BUSINESS MEETING

Date and Time: October 5, 2020 1:00 p.m. MT

THE PUBLIC IS STRONGLY ENCOURAGED TO ATTEND VIA WEBEX

WebEx Meeting Physical Location
www.webex.com Idaho State Police District 3 Office

Meeting number: 133 673 2799 700 S. Stratford Drive
Password: 2h5EJk6yQyM Meridian, Idaho

Commissioners: Cortney Dennis Terry Kirkham
Janie Dressen Patricia Young
Mike Matthews Shelly Parker
Scott Smith

Executive Director: Ashley Dowell

Commission Staff Present:

Felicia Forbus, Violations Hearing Officer Supervisor
James Keller, Parole Hearing Investigator Supervisor
Lissa Duncan, Hearings Manager

Others Present:

Jared Larsen Governor's Criminal Justice Policy Advisor
Karin Magnelli – Deputy Attorney General

AGENDA

1. Call to Order.– 1:00 pm Review of July 2020 Business Meeting minutes
 - i. **Action Item-** Commissioner Kirkham moved to accept the minutes from the July 2020 business meeting and Commissioner Young seconds. All in favor. Motion passes.
2. IDOC Update- Director Josh Tewalt, Chief Brian Underwood

Mr. Tewalt reported IDOC has conducted over 10,200 tests in the facilities. They have 510 active Covid cases with only 42 showing symptoms. Both inmates and staff have been tested. They have 25,000 test kits still available. Everyone coming in through the RDU is being tested as well as all those being released into the community. Testing capacity was a challenge in the beginning but have a relationship with the Veterans Administration now.

The positive rate dropped to less than 10% in September. 90% of all cases have been asymptomatic. 75% of the cases are considered recovered but IDOC is nearing the window where the immunity will wear off. They are doing all they can to stop the spread of COVID-19 in the facilities.

IDOC has used the CARES Act funding to do some upgrades to their technology such as more broadband, use of tablets, and adding WIFI in all IDOC facilities. The amount of room



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in programs and facilitators has been a challenge so the technology upgrades are a tool used to help the population with completing programming.

IDOC has reached out to Idaho National Guard to use a training center at the Gowan National Guard base and have been able to house inmates in the barracks who may test positive in order to quarantine them away from the main population.

The Twin Falls Re-entry center will be opening soon and will add 160 beds.

IDOC has awarded a contract with GeoCare to organize Connection and Intervention Stations to be operational mid-December. They will focus on those parolees who are higher risk to reoffend.

IDOC has made significant strides in providing programs and supervision virtually. Some IDOC Probation and Parole offices are facilitating virtual programming. CARES funding is also being put into funding more of the prevention/intervention services and to partner with other providers to provide services to the parolees.

Director Tewalt introduced Chief of Probation and Parole Brian Underwood.

Senate Bill 1357 requires the IDOC to validate the LSI assessments are in compliance every 4-5 years. IDOC was able to separate LSI scores by male and female. Mr. Underwood has sent documentation to Ms. Dowell to share with the Commission.

IDOC is implementing the Expanded Re-Entry program or a furlough. It will allow those in community re-entry centers to live in their own residence during the last 6 months of their time or those with a tentative parole date while still being in custody of IDOC. This will allow a better structured return into the community. The Commission asked what the expectation is if an inmate allowed to live in their homes violates or abuses the privilege. Mr. Underwood advised the inmate would be brought back into the facility and lose the privilege of the furlough.

Supervision standards have changed quite a bit over the past few months. The Parole Officers now have the flexibility to see the parolees in the field rather than requiring in office appointments. This will create less conflict with work and treatment schedules. Customer service will be vital in helping the parolee to be successful. Parole Officers (POs) are reporting they are having more meaningful conversations with the people they are supervising while using virtual programs.

A Commission asked if the rumor they have heard about the POs not using Agent Warrants is true. Mr. Underwood advised the Commission if a parolee is able to continue to be supervised in the community even after an arrest for a new charge, the parolee will go through the court process before the Commission sees them. The exceptions are those who are charged with sexual or violent offenses or who are a threat to the community. The Commission asked Director Dowell if they could just issue a Commission warrant and the Director stated that the statute requires a verbal or written report of violation from the PO.

3. Driving Conditions- District 7 Section Supervisor Dan Ziegler, IDOC
About 6 weeks ago, District Section Supervisors, Ashley Dowell, and Felicia Forbus met to discuss current issues and concerns. The Section Supervisors brought up issues the POs see when a parolee is not permitted to drive. P&P would like the Commission to consider allowing the PO to use discretion with driving privileges rather than submit a Modification of



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Special Conditions request. The inability of a parolee to drive can impact them with job opportunities and treatment options. The Commission expressed concerns with that approach in all cases, and noted that they needed to limit driving entirely, particularly with multiple DUIs, in certain cases.

4. **Mental Health Evaluations-** Dr. Walter Campbell, IDOC
IDOC Mental Health staff work with the offenders when they say they feel anxious or depressed. Dr. Campbell felt there is a disconnect on what the Commission hears and what abilities of the mental health department are. Dr. Campbell explained the levels of care within the department. He stressed his department needs very specific information the Commission wants to know in regard to an offender's mental health. Dr. Campbell advised the Commission the mental health reports are not always the best predictor of what to expect when an individual is released into the community. This excludes those who have been in a mental health unit and have had a serious mental health incident.
5. **Reviews of Riders Granted Probation**
There have been inconsistencies in the Commission's approach to revocation hearings involving riders. In a previous business meeting, the Commission voted to allow staff to move up parole hearings if a rider was granted probation. However, in several recent cases the Commission has instructed the inmate to ask their case manager to send a Miscellaneous File Review instead to move the hearing up. If the Commission wants to take that route, a new motion and vote will need to be considered. The Commission determined they will continue to have hearings staff use discretion in moving hearings to the soonest available session for those granted probation from their riders.
 - i. **Action Item:** None taken
6. **Hearing Minutes Format**
The Commission took previous action to have investigators use a bulleted format for Parole Hearing Investigator Reports. The discussion today is whether the Commission would like to consider a bulleted format for hearing minutes as well. After discussion, the Commission asked Hearings Manager Lissa Duncan to create a sample of bulleted minutes from past minutes for Commission review at the January Business meeting.
 - i. **Action Item-** None taken
7. **COVID-19 Update**
Executive Director Dowell advised the Commission that caps will be placed on the number of hearings reviewed each day and hearing days may need to be added to future sessions. Director Dowell is concerned with burnout with the Commissioners and staff and reducing hearings per day will help to ensure the length of hearing days is manageable even with technical issues.

Director Dowell sent a letter from the ACLU to the Commissioners about COVID concerns. The criminal defense bar has also expressed some concerns about COVID and suggested changes in Commission rules and processes. Agreements to facilitate hearings in jails have assisted with lowering continued hearings.

Commission staff will continue to work remotely until further notice. The intent is to keep staff healthy and to assist those who have children returning to school in some form. Only one staff member has contracted COVID-19 and has fully recovered.

Hearings will continue to be conducted online. There has been some conversation about



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bringing Commissioners in for Quarterly Business meetings but with the numbers increasing and with the need of a secure location, this has been tabled until the Spring. The office lease is about to expire so it may be possible to find a location that will allow for a secure environment.

Director Dowell has received concerns from attorneys, family members, and inmates about being granted parole but being unable to complete programming because of COVID restrictions in the facility. Director Dowell is asking the Commission if it wants to consider doing individual re-reviews of cases to determine whether or not they want to waive the completion of programming requirement before release and instead require programming in the community after release. The Commission discussed with several Commissioners stating that the Commission has asked for this option over the years from IDOC and other Commissioners expressing concern that there would not be enough of a motivator for people to complete programs in the community and parolees would not be violated for refusing to complete them. Director Dowell notes that the same criteria for prior re-reviews could be used in this scenario which would exclude violent and sexual offenses.

- i. **Action Item-Programming Reviews:** Commissioner Young moves to review the cases given open dates over the last 4 months using the criteria Ms. Dowell used for the previous re-reviews to determine if programming will be done in the community rather than the facility. Commissioner Kirkham seconds. Commissioners Matthews, Kirkham, and Young are in favor. Commissioners Dennis, Smith, Dressen, and Parker not in favor. Motion fails.
- ii. **Action Item- Additional Commission Policy Decisions:** None taken

8. Commutation Process

Director Dowell noted several issues that have been identified recently with the Commutation process and petitions. There have been cases where between the petition submission and the petition review the parolee has violated parole, gotten new charges, or there has been a warrant issued. Another example is that inmates have been using commutation petitions in lieu of the SIPR process. In those cases, they are requesting that the Commission change their prior decision and are not actually requesting that their sentence be commuted. Director Dowell suggests that the Commission consider continuing the review of petitions that they are considering granting to the following day to allow for a cursory review of new charges, warrants, violation status, etc. Director Dowell also suggests the Commission allow hearings staff to return and not process petitions that do not request a commutation and instead are asking for another type of action.

- i. **Action Item:** Commissioner Dressen moves that potential commutation hearing petitions grants will be continued to the following day to allow hearing investigators to confirm there are no circumstances that would not allow the petition to continue to a hearing. Commissioners Kirkham seconded the motion. All in favor. Motion passes.
- ii. **Action Item:** Commissioner Kirkham motioned to allow Commission staff to review Commutation petitions to ensure the petition meets the criteria and to return them to the sender unprocessed if they do not. Commissioner Dennis seconds. All in favor. Motion passes.

9. Commission IDAPA Rule Change

Director Dowell asked the Commission to adopt the presented IDAPA rule change.



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- i. **Action Item:** Commissioner Smith moved to adopt the administrative rule addressed by Ms. Dowell. Commissioner Dressen seconds. All in favor. Motion passes.
10. Welcome New Commissioner: Shelly Parker is happy to be here on this side of the process. She brings a great deal of experience as a victim witness coordinator and asked the existing members to be patient as she learns.
11. Commissioner Dennis announced she has informed the Governor's office she will not be renewing her term after it expires in December 2020.
12. Close Meeting: 3:42pm Commissioner Kirkham moved to close the meeting at 3:42pm. Commissioner Dressen seconds the motion. All in favor. Motion passes.