

February 2, 2009

The Board determined hearing officers have authority to remove electronic monitoring as a special condition of parole as recommended by the Department of Corrections. Hearing officers do not have authority to order electronic monitoring without prior approval from the Board. In addition, if the hearing officer on duty believes a warrant is necessary after reviewing an alternative event, the Board must approve of the warrant before the hearing officer communicates with the agent. Hearing officers on duty are not to recommend warrants to agents on alternative events without first obtaining Board approval.

February 23, 2009

The Board decided if it orders a rehearing date three years or beyond for a sex offender who is in sex offender treatment, the offender is to be removed from treatment and at a later time placed back into treatment close to the new hearing date.

The Board asked that the Institutional Progress Report show a cumulative history of an offender's substance abuse and sex offender therapy. The Board would like to know if programs such as Conquest, Hope or Sex Offender Therapy have been completed. If treatment has not been completed, then the IPR should address time spent in and the results of therapy. Case Analysts and Hearing Officers are to also reference an offender's participation in therapy in their summaries and routings.

The Board asked that stipulations be submitted to the Board member conducting the evidentiary hearing 10 days prior to the hearing. In addition, waivers should not be used to absent an offender from the dispositional phase of the proceeding. The Board asked that this be included in the Attorney Contract Request for Proposal. The Chairman, Curtis Garner, asked that he be given a copy of the Board rule governing evidentiary hearings so he could discuss the issue with the contract attorneys.

March 16, 2009

The Board discussed how to calculate start dates for Utah offenders/inmates sentenced while in custody in another jurisdiction and approved or reaffirmed the following policy and procedure:

- a. The Board decided the start date for an offender/inmate sentenced to serve a Utah prison commitment while incarcerated in another jurisdiction, or after having been incarcerated in another jurisdiction while awaiting sentencing by the Utah court, is the date of sentencing on the Utah case(s), with any other Utah pre-sentencing credit for time served normally given. If it specifically states in the Judgment and Commitment that the Utah sentence is to run concurrently to a sentence in another jurisdiction, which was ordered prior to the Utah sentence, time on the Utah sentence is not to be tolled while the offender/inmate is incarcerated in the other jurisdiction and the expiration date of the sentence should not be lengthened. In all other cases, i.e., where the Utah Judgment and Commitment is silent regarding a sentence in another jurisdiction or where the Utah

sentence is ran consecutively to a sentence in another jurisdiction, the start date is effectively continued (or delayed) until the offender/inmate is released to Utah custody for commitment to the USP and the expiration date is adjusted accordingly.

b. When an offender/inmate already incarcerated at USP is tried and sentenced by/in another jurisdiction and then remains in that jurisdiction's custody following the sentencing hearing (i.e. is not returned to the USP), the start date for the Utah sentence remains the same as when first incarcerated, with applicable presentence CTS. However, the time the offender is incarcerated on the other jurisdiction's sentence does not count toward service of his/her Utah sentence, beginning on the date the sentence is handed down in the other jurisdiction.

c. Pursuant to Title 77, Chapter 29 (Disposition of Detainers Against Prisoners) Utah is a party state to the Interstate Agreement on Detainers (IAD) found at Utah Code Annotated, section 77-29-5. Article V of the agreement states that while a prisoner is in the temporary custody of a receiving state having been transferred to that state/jurisdiction to be heard on pending charges in that state/jurisdiction, or otherwise incarcerated while awaiting prosecution in that state/jurisdiction after having been released by the sending state/jurisdiction to face trial, the time being served on the sentence of the sending state shall continue to run. Moreover, the prisoner is deemed to remain in the custody of the sending state. And escape from custody by the prisoner is deemed to be an escape from the penal institution of the sending state as per Utah Code Annotated, section 77-29-9. Article II of the agreement defines a 'state' under the agreement to mean a state, territory, or possession of the U.S., Washington, D.C., Puerto Rico, and the United States itself (i.e., federal government). The upshot of the agreement is that the pretrial time associated with the Utah prisoner's prosecution in another state or by the Feds, and any post-trial time in another 'state' associated with a successful appeal resulting in dismissal of charges, counts as time toward the prisoner's Utah sentence(s). While the Board does not know every state that is a party to the agreement, but Utah is a party as well as the federal government, so as a policy matter, the Board should give deference to legislative intent in being a party to the agreement without knowing whether another state is a party or not. According to the Utah State Prison Records Department only Louisiana and maybe another state is not a party to the agreement, and they utilize Governor's Warrants to accomplish such transfers.

d. The Board agreed that Utah Code Annotated, section 77-29-et. seq., confirms the notion that the provisions in Utah Code Annotated, section 76-3-202 are limited to paroled persons and/or circumstances that come into play after a person has been released from prison on parole by the Board. Also, the IAD doesn't come into play with the Federal Government when a Federal Magistrate utilizes the writ process to have a Utah prisoner appear on federal charges and the prisoner elects to remain in federal custody pending adjudication of charges.

e. As a procedural matter, when Board staff become aware of a circumstance where a Utah offender has been sentenced to serve a Utah state sentence but is located in a non-Utah prison facility, awaiting trial or serving a federal, state, or tribal jurisdiction

sentence, the staff should ensure that the offender's Utah information and documentation is compiled in a file and promptly routed to the Board members for disposition regarding waiver of appearance, scheduling of hearing, and if applicable, tolling of sentence.

The Board asked that hearing officers list parole violation allegations as they appear in the warrant and that additional allegations found in the Warrant Request be listed under the warrant allegations.

The Board asked that agents check cases to see if they have dual supervision so it can be determined if the Utah case might be terminated. Also, inmates need to be given notice that they may have dual supervision. In addition, when the Board paroles an offender to a detainer in another jurisdiction the Board will note the toll time on the disposition. Hearing officers and Board members are to notify offenders with dual supervision at hearings of this procedure.

April 27, 2009

The Board determined that selected parole revocation cases could be dismissed if there is a lack of information from Adult Probation and Parole.

Clark Harms, Vice Chairman, asked that when an alternative event request comes to the Board and is approved by a hearing officer, then the Board issues a warrant, that the Board action reversing the hearing officer be recorded in the file.

May 4, 2009

The Board briefly discussed toll time on an offender's case and determined toll time issues will be decided on a case by case basis. The Board will route the case in question to resolve credit for time served.

The Board decided when a hearing officer takes action on a special attention request, and the Board changes the hearing officer's decision and issues a warrant, that the file is to be given to the hearing officer with a copy of the Board's disposition so the hearing officer is made aware of the Board's ruling. In addition, the hearing officer decision needs to be removed and the Board's decision placed in the file.