

CALIFORNIA HIGHWAY PATROL

GENERAL ORDER 10.15

REVISED FEBRUARY 2019

DEPARTMENTAL RESPONSE TO PAROLE HEARINGS

1. PURPOSE. The purpose of this General Order is to establish response procedures for parole hearings. For parole hearings involving persons convicted of crimes against California Highway Patrol (CHP) officers, a response from the CHP is warranted.

2. GENERAL. Tragically, the sworn duty of a CHP officer too often exacts the ultimate sacrifice—the loss of the officer’s life. An officer’s death irreparably impacts their family, friends, and the Department. Therefore, participation in the parole hearing process involving the murder of a CHP officer is of the utmost importance.

3. POLICY. Upon notification of a pending parole hearing, the Commissioner will direct correspondence to the Board of Parole Hearings (BPH) through a Memorandum of Concern.

4. PROCEDURES. Section 3042 (a) of the Penal Code (PC) requires the BPH to notify the employing agency of a murdered peace officer of a pending parole hearing.
 - a. Headquarters Notification. Generally, the BPH notification will be sent directly to headquarters. Upon notification, the Commissioner’s office will inform the appropriate Area command (location where crime occurred and/or last assigned Area of the officer) and the Office of Employee Safety and Assistance (OESA). Additionally, the Commissioner’s office will forward the information to Research and Planning Section (RPS) for necessary action and/or follow-up.

 - b. Area Notification.
 - (1) Occasionally, the BPH or a family member will first notify the Area in which the crime occurred of a pending parole hearing. Areas not receiving notification from headquarters shall immediately forward a copy of the notice through channels to the Office of the Commissioner.

 - (2) If notice is received verbally, the Area shall obtain all pertinent information and immediately relay the information through channels to the Office of the Commissioner. The Area should attempt to determine the following information:

(a) The reporting party's information (name, address, telephone number, relationship to victim, circumstance of their notification/source of information, etc.).

(b) Name of the offender.

(c) The California Department of Corrections and Rehabilitation's inmate identification number (located on the official notice form directly under the subject's name), if the reporting party possesses the BPH's notice.

(d) Name of the victim.

(e) Date of the offense.

(f) Date of the scheduled parole hearing.

(g) Location of the parole hearing (name, address, and the telephone number of the prison facility).

c. Response.

(1) Memorandum to the Board of Parole Hearings. The Office of the Commissioner will respond to the BPH expressing departmental concerns. The response will briefly describe the pertinent facts of the crime, emphasizing the impact the offense had on the victim's family, the Department, and the people of California. Research and Planning Section will provide assistance as necessary. A copy of the Commissioner's memorandum will be provided to the respective Division/Area and the OESA to facilitate the flow of communication.

(2) Contact with Local Prosecutor. The prosecutor of the county where the inmate was committed is the sole representative of the people at the hearing. Thus, communication between the prosecutor and the Department is paramount.

(a) In addition to the headquarters' response, the Area commander or their designee shall contact the assigned prosecutor and personally convey the Department's concerns.

(b) If an officer was killed in an adjacent Area (other than their assigned Area), the commander of the Area where the crime occurred and the Area where the officer was last assigned shall coordinate contact with the prosecutor.

d. Participation.

(1) Attendance. Attendance at the parole hearing is strictly limited by statute. Only the prosecutor, victim, next of kin, and a designated support person may

attend the hearing. Thus, CHP members are not permitted to attend parole hearings unless requested by the family as a support person. Refer to Annex A for a listing of applicable statutes.

(a) Should a family member request a CHP member attend as a support person, attending personnel are reminded that comments and/or active participation are strictly prohibited.

(b) The CHP members participating as support persons shall not wear the departmental uniform nor other indicia suggestive of departmental representation.

(2) Other Parole Hearings. Section 3043.5 (b) PC permits interested persons to submit a written statement of views in support of, or opposition to, the granting of parole of "any inmate in a state prison." Occasionally, members of the Department who were victims, members of the public, and/or other law enforcement agencies may request the Department respond to a pending parole hearing not involving the murder of a CHP officer. Requests for departmental input on these parole hearings shall be immediately forwarded to the Office of the Commissioner for an evaluation of the appropriate departmental response.

(3) Nondepartmental Participation. Interested persons may submit a written statement of views in support of, or opposition to, the granting of parole of any inmate in a state prison.

(a) The CHP employees may provide written comments to the BPH to the extent authorized by Section 3043.5 (b) PC. Professionalism in all communications and/or contacts with all participants of the parole hearing process is expected.

(b) Those employees submitting comments shall not portray themselves as representing the Department. When an employee wishes to submit written comment to the BPH regarding the parole of an individual, they should only use their name and generic rank with the option of including the occupation Peace Officer. Examples would be Officer John Doe, or Captain Jane Doe, Peace Officer. Correspondence shall not include the terms California Highway Patrol or CHP.

e. Reporting and Follow-up.

(1) When incidents occur that will result in the prosecution of individuals for murder or attempted murder of departmental employees, commands shall notify RPS. Notification shall include:

(a) Initial incident detail; i.e., date, parties involved, and charges filed.

(b) Periodic updates on the status of the adjudication process.

(c) Conviction and sentencing results.

(2) Research and Planning Section will maintain a spreadsheet of active incarcerations in order to track future parole hearings.

OFFICE OF THE COMMISSIONER

ANNEX A

OPI: 061

ANNEX A

STATUTORY AUTHORITY

- Penal Code Section 3041.7: mandates the prosecutor of the county from which the inmate was committed is entitled to “represent the interests of the people” at a hearing involving an inmate sentenced to a life sentence. Moreover, the prosecutor “shall be the sole representative of the interests of the people.”
- Penal Code Section 3042 (a): mandates that at least 30 days before a parole hearing for an inmate sentenced to life, the Board of Parole Hearings send written notice to the superior court judge before whom the inmate was tried and convicted, the defense attorney, the district attorney of the county in which the offense was committed, the investigating law enforcement agency, and “*and if the inmate was convicted of the murder of a peace officer, the law enforcement agency that employed the peace officer at the time of the murder.*” Additionally, Section 3041.7 of the Penal Code mandates the Board of Parole Hearings notify the Attorney General.
- Penal Code Section 3043: the Board of Parole Hearings, upon request, will provide notice of a parole hearing to the crime victim or the victim’s next of kin if the victim has died.

“The victim, next of kin, members of the victim's family, and two representatives designated as provided in paragraph (2) of this subdivision have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the inmate and the case, including, but not limited to the commitment crimes, determinate term commitment crimes for which the inmate has been paroled, any other felony crimes or crimes against the person for which the inmate has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the inmate for parole.”

- Penal Code Section 3043.1: the victim, their next of kin, or any immediate family member of the victim who appears at the parole hearing is entitled to have one person of their choosing attend the hearing “for support.” The support person “shall not participate in the hearing nor make comments while in attendance.”
- Penal Code Section 3043.5 (b): authorizes “any person interested in the grant or denial of parole...the right to submit a (written) statement of views in support of or in opposition to the granting of parole.” The board is required to review all such information “to insure that the safety of the public has been adequately considered.”

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