

133125

**DISPOSITION OF CASES RELEASED FROM THE
MENTALLY DISORDERED OFFENDER PROGRAM
BY THE GIBSON DECISION**

REPORT TO THE LEGISLATURE

STATE OF CALIFORNIA

George Deukmejian
Governor

YOUTH AND ADULT CORRECTIONAL AGENCY

Joe Sandoval
Secretary

DEPARTMENT OF CORRECTIONS

James Rowland
Director

HEALTH AND WELFARE AGENCY

Clifford Allenby
Secretary

DEPARTMENT OF MENTAL HEALTH

Steven Shon, M.D.
Director (A)

September 30, 1990

133125

DEPARTMENT OF CORRECTIONS

James Rowland
Director

Robert Denninger
Chief Deputy Director

Midge Carroll
Deputy Director
Parole and Community Services

DEPARTMENT OF MENTAL HEALTH

Steven Shon, M.D.
Director (A)

Douglas Arnold
Chief Deputy Director

Clyde Murrey
Deputy Director
State Hospitals

**MENTALLY DISORDERED OFFENDER PROGRAM
TASK FORCE**

DEPARTMENT OF CORRECTIONS

Louis Beermann, Ph.D.
Steven Boranian
Judith Cartier
Robert Dickover
Cynthia Grummert
Carolyn McCall

Penny O'Daniel
Michael Pesely
Kathleen Roloff
Katherine White
John Zil, M.D., J.D.

DEPARTMENT OF MENTAL HEALTH

Mark Wiederanders, Ph.D.

Quonson Wong

BOARD OF PRISON TERMS

Phyllis Scott

DEPARTMENT OF JUSTICE

Bruce Slavin, J.D.

PREFACE

This report is submitted in compliance with the requirement in Senate Bill 1625 (Statutes 1989, Chapter 228, Section 7) that the California Department of Corrections and the State Department of Mental Health, in conjunction with the Board of Prison Terms, submit a report to the Legislature by September 30, 1990, containing the following:

1. A description of the disposition of cases of patients released from treatment under the mentally disordered offender program following the invalidation of that program by the Court of Appeal in *People v. Gibson* (204 Cal. App. 3d 1425), including discussion regarding any subsequent acts recorded by the State Department of Mental Health, and the Department of Corrections, to the extent resources are available.
2. A description of the criteria used to select which prisoners are personally evaluated for possible treatment under the mentally disordered offender program, and the criteria used to determine which of those prisoners are to be treated under the program.

133125

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been
granted by

California Department of
Corrections

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

TABLE OF CONTENTS

	PAGE
Introduction	1
Reporting Requirements.....	2
Disposition of MDO Cases Following Gibson Decision.....	3
Disposition of Gibson Cases Not Initially Released.....	5
Follow-up of Gibson Cases Released to Parole in the Community.....	6
Follow-up of Cases Removed from Conditional Release Program	10
Post-Discharge Follow-up	10
Discussion and Conclusions.....	10

APPENDICES

Appendix I. Senate Bill 1625 (Statutes 1989, Chapter 228)

Appendix II. Department of Corrections Administrative Bulletin:
Implementation of Revisions to PC 2960-81 (Mentally Disordered Offender Act)

INTRODUCTION

The decision of the California Court of Appeal in *People v. Gibson* invalidated the existing Section 2962 of the California Penal Code which mandated treatment in a facility of the State Department of Mental Health (DMH) for a person sentenced to the California Department of Corrections (CDC) who was determined to be a mentally disordered offender (MDO). The criteria for this determination were that the offender:

1. was eligible to be released on parole;
2. had a severe mental disorder, which was not in remission or could not be kept in remission without treatment;
3. was sentenced to a current term in prison for the commission of a crime in which his/her severe mental disorder was one of the causes or was an aggravating factor;
4. was sentenced for a crime in which he/she used force or caused serious bodily injury;
5. was in treatment for the severe mental disorder for 90 days or more within the year prior to the date of parole.

The invalidated MDO legislation, which became effective on January 1, 1986 and was implemented beginning on July 1, 1986, required that a person meeting the above criteria who had been sentenced prior or subsequent to July 1, 1986 be confined in a mental hospital as a condition of parole. Because of the element of retroactivity in the law, the Court of Appeal held that the legislation violated ex post facto clauses in the U.S. and California Constitutions in that it both increased the person's punishment and altered the situation to his/her disadvantage. The alteration to his/her disadvantage occurred because at the time of his/her offense (if it was prior to January 1, 1986), the person was able only to have been confined involuntarily for treatment on the same basis as all non-prisoners or non-parolees. The basis for involuntary confinement of a person for treatment was a finding that he/she was mentally ill and gravely disabled or dangerous. The court viewed the existing MDO law as potentially making possible the retention in custody in a state hospital for life of a person without proof either of grave disability or of dangerousness resulting from mental illness.

The court also held that the law, in not requiring proof of any present dangerousness resulting from mental disorder, also violated the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. The inequality lay in the fact that similarly situated cases could not be recommitted after the expiration of their maximum terms without a proof of dangerousness. The decision cited as most similarly situated cases in California two groups of mentally ill persons subject to involuntary confinement: those found not guilty by reason of insanity (NGI) and recommitted after the expiration of the maximum term of imprisonment which

could have been imposed upon them and those mentally ill persons, now adults, originally committed as wards of the state (mentally disordered wards or MDWs) who were recommitted after expiration of their potential maximum term of imprisonment. In the words of the decision:

An MDO, like the MDW and an NGI, has been adjudged to have committed a criminal offense. Both the MDO and NGI are committed after proof of a causal connection between their mental illness and the crime which they committed.... Unlike the NGI and MDW, the MDO, however, is not confined only on proof of dangerousness and is not subject to release when he or she is no longer proven to be dangerous. The MDO alone is subject to commitment and recommitment until such time as his or her severe mental disorder is in remission without proof of present dangerousness.

The MDO legislation which had become effective on January 1, 1986 was invalidated by the Court of Appeals; however the concern of the public and of state government about offenders with severe mental disorders who have a potential for violence was not diminished. The response to the Gibson decision was the enactment of urgency legislation in 1989 in the form of Senate Bill 1625 (Appendix I of this report) amending Sections 2962, 2966, 2970, and 2980 of the Penal Code. The amendment of Section 2962 added another criterion to those for determining whether a prisoner, as a condition of parole, shall be required to receive treatment in DMH. This criterion is "that by reason of his or her severe mental disorder, the person represents a substantial danger of physical harm to others." The amendment of Section 2962 corrects the equal protection issue. Section 2980 was amended to correct the ex post facto issue, making Section 2962 applicable only to those persons who committed their crimes on and after January 1, 1986.

REPORTING REQUIREMENTS

Section 7 of Senate Bill 1625 imposes two sets of reporting requirements. The purpose of this report is to meet the first of these, which is to submit to the Legislature: a) a description of the disposition of cases released from treatment under the MDO program following the invalidation of that program by the Gibson decision and b) the criteria used to select inmates for evaluation and treatment under the modified MDO program delineated in Sections 2960-81 of the Penal Code (excluding 2974). The procedure followed in the selection of cases for evaluation and treatment in the MDO program is outlined in CDC Administrative Bulletin number 89/71 ("Implementation of Revisions to PC 2960-81 - Mentally Disordered Offender Act"), which is included in this report as Appendix II. The following sections of this report present information on the disposition of and outcome for the cases released from treatment in the former MDO program. The second set of reporting requirements calls for the submission of an annual report on the status of the modified MDO program by December 31, 1991 and by December 31 each year thereafter through 1996.

DISPOSITION OF MDO CASES FOLLOWING GIBSON DECISION

At the time the decision in *People v. Gibson* became effective in February 1989, 171 cases who were under felon commitments to CDC and who had been determined to be MDOs were receiving treatment in DMH facilities and programs as a condition of parole, pursuant to Section 2962 of the Penal Code. Under treatment at Atascadero State Hospital (ASH) were 148 male MDOs. Metropolitan State Hospital (MSH) had eight female MDOs in treatment. The other 15 MDO cases were both under parole supervision in the community and treatment in DMH's Forensic Conditional Release Program (CRP).

The CRP is a network of state-funded and state-administered (through DMH) mental health services provided in the community. MDOs are placed in CRP after their treatment in a state hospital and release to parole supervision in the community when it has been determined that they can be safely and effectively treated in that setting. While on parole and as long as they are determined to meet the MDO criteria, they are under joint CDC and CRP supervision.

The Gibson decision made all 156 MDO cases under treatment in ASH and MSH as a condition of parole eligible for release to the community for supervision by CDC's Parole and Community Services Division and ordered the removal of the 15 MDO cases in the CRP from that program. Not all 156 of the hospitalized former MDOs were released to community supervision, since as parolees they may be returned to custody in a CDC institution and subsequently may be transferred to a DMH hospital for psychiatric treatment in accordance with Section 2646 of the Rules and Regulations of the Board of Prison Terms (California Code of Regulations, Title 15, Division 2, Chapter 6) and section 2684 of the Penal Code. Section 2684 authorizes CDC to transfer mentally ill persons confined in its institutions to DMH facilities for treatment. The dispositions of the former MDO cases in DMH hospitals affected by the Gibson decision in the first post-Gibson review (March 1989) conducted by CDC and the Board of Prison Terms (BPT) are shown in Table 1.

TABLE 1
DISPOSITIONS OF MDO CASES AFTER GIBSON DECISION
MARCH 1989

TYPE OF DISPOSITION	PRE-DECISION TREATMENT PROGRAM		
	ASH	MSH	TOTAL
Released to parole supervision	72	4	76
Returned to CDC institution	26	3	29
Retained in DMH hospital:			
PC 2684	48	--	48
PC 1370	1	--	1
PC 1026	1	--	1
Lanterman-Petris-Short Act	--	1	1
TOTAL	148	8	156

Of the 156 former MDOs in the state hospitals at the time of the review in March 1989, 76 (or 49 percent) were released to parole supervision in the community. The remaining 80 hospitalized cases were retained through various legal provisions for psychiatric treatment in CDC or DMH institutions. One of these cases was civilly committed to DMH under the Lanterman-Petris-Short Act (LPS) as a person dangerous to self or others or gravely disabled as a result of a mental disorder. The civil commitment is an option for use with an inmate/parolee who has served the maximum term for his/her criminal offense and who meets the LPS criteria of grave disability and/or dangerousness to self and/or others. The paroles of the other 79 cases in this group were revoked, and they were continued in custody under a return to custody order of BPT. Of these, 29 were returned to a CDC institution and 48 were retained in DMH under Section 2684 of the Penal Code. One was committed to a state hospital under Section 1370 of the Penal Code (incompetent to stand trial) and another under Section 1026 of the Penal Code (not guilty by reason of insanity).

DISPOSITION OF GIBSON CASES NOT INITIALLY RELEASED

The dispositions in the year April 1, 1989 through March 31, 1990 for the 80 cases not released to parole supervision in the community in the first post-Gibson review in March 1989 are shown in Table 2.

TABLE 2

**DISPOSITIONS OF GIBSON CASES
APRIL 1989 THROUGH MARCH 1990^a**

TYPE OF DISPOSITION	NUMBER	PERCENT
Released to Parole Supervision	51 ^b	63.8
Discharged from Parole	9	11.2
In CDC Institution Entire Period	16	20.0
In DMH Hospital Entire Period	4 ^c	5.0
	<hr/>	<hr/>
TOTAL	80	100.0

^aThe dispositions shown in this table are for the cases remaining in CDC or DMH facilities after the first group of 76 cases was released to parole in March 1989.

^bIncludes three female offenders

^cIncludes one female offender

The majority of the cases (60 individuals or 75 percent) had either been released to parole supervision in the community or discharged. The other 20 individuals (or 25 percent) had remained in a CDC institution or DMH hospital throughout the year.

**FOLLOW-UP OF GIBSON CASES RELEASED TO PAROLE
IN COMMUNITY**

As indicated in Table 1, 72 of the 148 male cases whose statuses as MDOs were nullified by the Gibson decision were released to parole supervision in the community in March 1989. Table 3 presents the statuses of those cases on March 31, 1990.

TABLE 3

STATUSES OF MALE GIBSON CASES RELEASED IN MARCH 1989

STATUS ON MARCH 31, 1990	NUMBER	PERCENT
On Parole Without Return to Custody	19	26.4
On Parole With Return to Custody	7	9.7
Returned to Custody	26	36.1
DMH Commitment, 1026 PC	1	1.4
DMH Commitment, 1370 PC	1	1.4
Discharged From Parole Without Return to Custody	15	20.8
Discharged From Parole With Return to Custody	3	4.2
TOTAL	72	100.0

On March 31, 1990, 26 individuals (36.1 percent of the cases) were still on parole in the community, although seven of these had been returned to custody for a parole violation or psychiatric treatment by BPT during the year. More than a third of the group (26 individuals or 36.1 percent) were in a CDC institution on March 31, 1990 as a result of a return to custody by BPT for a parole violation or a need for psychiatric treatment. Two cases were in DMH hospitals on Penal Code commitments--one found not guilty by reason of insanity (Section 1026) and the other incompetent to stand trial (Section 1370).

More than half of the cases (38 individuals or 52.8 percent) were returned to custody by BPT at least once during the year for a parole violation or psychiatric treatment or received a commitment to a DMH facility. The principal charges or reasons in those actions are shown in Table 4.

TABLE 4
PRINCIPAL VIOLATION CHARGES OR REASONS
FOR RETURNS TO CUSTODY IN YEAR AFTER RELEASE
FOR MALE GIBSON CASES RELEASED IN MARCH 1989

PRINCIPAL VIOLATION CHARGES OR REASONS	NUMBER	PERCENT
Needs psychiatric treatment	16	34.8
Special conditions of parole ¹	7	15.2
General conditions of parole ²	1	2.2
Sex offenses	2	4.3
Assault or battery	5	10.9
Drugs	11	23.9
Absconding from supervision	2	4.3
Other Offenses	2	4.3
TOTAL	46	100.0

¹The special conditions of parole include: failure to attend Parole Outpatient Clinic, use of alcohol, failure to participate in drug testing, associating with persons prohibited by condition of parole, entering area prohibited by condition of parole.

²The general conditions of parole include: failure to report to parole agent (PA), changing residence without PA approval, changing employment without notifying PA, failure to follow PA instructions, failure to inform PA of arrest, and refusal to sign conditions of parole.

Those 38 cases were returned to custody a total of 46 times. The greater number of returns than cases indicates that some were returned more than once in the year follow-up period. The principal charge or reason most frequently leading to these returns was the need for psychiatric treatment. More than one-third of the returns to custody (16 of 46 or 34.8 percent) were for psychiatric treatment. The principal charge in three of the returns for violations of special conditions of parole was failure to attend Parole Outpatient Clinic. Consequently, 19 of the returns were

related to issues of psychiatric treatment. The next most frequent type of principal charge in returns to custody for this group was drug-related offenses; 11 of the 46 returns (23.9 percent) involved a drug-related infraction as the principal charge. Two of the returns were for sex offenses, neither of which was assaultive nor involved children as victims. Five of the returns were for offenses of assault and battery; three of the five were for assault with a deadly weapon.

As shown in Table 2, 48 of the 76 male cases, who were not included in the initial group of Gibson cases released in March 1989, were released to parole supervision in the community in February and March 1990. Of the 48 male cases, ten had actions filed against them between the date of their release and April 1, 1990 which resulted in returns to custody. Eight of these returns were for psychiatric treatment. Two of them were for sex offenses, one of which was an attempted rape.

Four of the eight female Gibson cases were released to parole supervision in the community in March 1989, and three others were released in February and March 1990. One of the March 1989 releases was returned to custody for psychiatric treatment. None of the 1990 female releases had been returned to custody up to April, 1990.

Table 5 summarizes the information on the principal violation charges and reasons for the returns to custody experienced by all Gibson cases of both sexes who were released to parole supervision in the community from March 1989 through March 1990.

TABLE 5
PRINCIPAL VIOLATION CHARGES OR REASONS
FOR RETURNS TO CUSTODY OR DMH COMMITMENTS
FOR ALL GIBSON CASES RELEASED FROM
MARCH 1989 THROUGH MARCH 1990

PRINCIPAL VIOLATION CHARGES OR REASONS	NUMBER	PERCENT
Needs psychiatric treatment	25	43.9
Special conditions of parole ¹	7	12.2
General conditions of parole ²	1	1.8
Sex offenses	4	7.0
Assault and battery	5	8.8
Drugs	11	19.3
Absconding from supervision	2	3.5
Other offenses	2	3.5
TOTAL	57	100.0

^{1,2}Listed in footnotes of Table 4

The 57 returns to custody cited in the table were accumulated by 49 of the Gibson cases, indicating again that some of the cases had been returned more than once. The most frequent reason for the return to custody of these cases was the need for psychiatric treatment; 25 (43.9 percent) of the returns were for this reason. Returns for drug-related offenses were the next most frequent with 11 or 19.3 percent of the total. Sex offenses and assault and battery were the principal charges in nine of the revocations or 15.8 percent of the total.

FOLLOW-UP OF CASES REMOVED FROM CRP

Fifteen of the Gibson cases were on parole in the community under the joint supervision of DMH (CRP) and parole. In nullifying their status as MDOs the Gibson decision removed these cases from DMH supervision and continued them on parole supervision in the community. By March 31, 1990, seven of these cases had been discharged from parole, five were continuing under parole supervision without a return to custody, and three had had a total of five returns to custody in the year. Three of these returns to custody were related to the psychiatric condition of the persons/parolees involved. Two of the three were returned specifically for psychiatric treatment and one because of a failure to attend Parole Outpatient Clinic. One was returned because of possession of a knife with a blade longer than two inches. The remaining case was returned on a drug-related charge.

POST-DISCHARGE FOLLOW-UP

Of 171 cases in MDO status at the time of the Gibson decision, 34 had been discharged from their CDC commitments by March 31, 1990. The average length of time from their discharge to March 31, 1990 was 4.9 months. Only one of these cases had a post-discharge record of arrest as of that date. He was arrested for burglary, receiving stolen property, and malicious mischief and committed to DMH under Section 1370 of the Penal Code (incompetent to stand trial).

DISCUSSION AND CONCLUSIONS

The findings from this survey indicate that the parole supervision in the community of the Gibson cases released in March 1989 was associated with reasonably satisfactory results. Persons from this group in need of psychiatric treatment were returned to custody for this purpose when their condition warranted it. The Department of Corrections' early intervention in referring these parolees to BPT probably served to prevent reoffenses by some MDOs, whose prior violent crimes were a result of mental illness. The 76 cases released to parole supervision in March 1989 (72 males and four females) did not engage in a large number of reported violent or other criminal acts during the first year after their release to parole supervision. The primary concern about these offenders is the extent to which they are going to commit crimes against persons. The available evidence shows that they did not commit a large number of these particular crimes. Seven of these cases were returned to custody for crimes against persons--five for assaultive offenses, and two for sex offenses.

The most frequent reason for a return to custody among the March 1989 releases was the need for psychiatric treatment; 16 of the total of 46 returns experienced by this group of offenders were for this reason. Psychiatric returns are not reflective of criminal behavior on the part of the parolees involved. Parolees are returned for

psychiatric treatment when they are found by BPT to suffer from a mental disorder which substantially impairs their capacity to maintain themselves in the community or makes them a danger to themselves or others and when necessary treatment cannot be obtained in the community. The second and most frequent category of charges resulting in returns to custody for this group was that of drug violations (11 of 46).

The outcome for the 51 cases released to parole supervision in the community in March 1990 may turn out to be significantly less favorable in a follow-up that is longer than that possible for this survey. These cases were followed up only to the end of March 1990; but within that month, ten of them had already been returned to custody by BPT. Eight of these returns were because of a need for psychiatric treatment, and the two others were returned because of sex offenses. However, it must be remembered that the March 1990 releases were not released in 1989 with the first group because they were found by the BPT to have a mental disorder which would substantially impair their ability to maintain themselves in the community or make them a danger to the community and to be in need of further psychiatric treatment. That is, they represented a more severely impaired and more potentially dangerous group than those released to parole supervision in the community in 1989. They were, therefore, ordered retained in custody for psychiatric treatment in CDC or DMH facilities and not released to parole supervision in the community for another year.

Senate Bill No. 1625

CHAPTER 228

An act to amend Sections 2962, 2966, 2970, 2972, and 2980 of the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1989. Filed with
Secretary of State July 27, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1625, McCorquodale. Prisoners: mentally disordered offenders.

(1) Under existing law, the mentally disordered offender program requires that, as a condition of parole, a prisoner who meets specified criteria is required to be treated by the State Department of Mental Health. Existing law provides as one of those criteria, that for any prisoner who is being evaluated for treatment under that program, prior to release on parole, the person treating the prisoner and a practicing psychiatrist or psychologist of the Department of Corrections shall have evaluated the prisoner, and that a chief psychiatrist of the department has certified certain specified facts to the Board of Prison Terms regarding the prisoner's severe mental disorder.

This bill would provide that those facts which are certified by a chief psychiatrist of the department shall include that by reason of his or her severe mental disorder, the prisoner represents a substantial danger of physical harm to others.

The bill would make a conforming change with respect to any hearing the prisoner requests regarding that certification.

(2) The provisions described in paragraph (1) above also provide that if the professionals evaluating the prisoner's severe mental disorder do not concur with respect to the mental condition of the prisoner or that the condition was related to the prisoner's criminal behavior, as specified, that the Board of Prison Terms shall order a further examination by 2 independent professionals. Those provisions further provide that the requirement that a chief psychiatrist of the department certify those specified facts does not apply unless both of the independent professionals concur with that chief psychiatrist.

This bill would make technical, nonsubstantive changes to clarify which issues those independent professionals are required to concur with.

(3) Existing law provides, with respect to prisoners released on parole on condition that they continue treatment upon termination of prison or parole, that if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the

director of the mental health facility or the Director of Corrections shall submit his or her evaluation on remission to the district attorney. Under those provisions, the district attorney may file a petition for the continued treatment of the person for one year. Existing law requires the petition filed by the district attorney to specify whether the prisoner has a severe mental disorder, and why it is not in remission or cannot be kept in remission without treatment.

This bill would, instead, provide that the petition shall specify that the prisoner has a severe mental disorder and that it is not in remission or cannot be kept in remission without treatment, and that by reason of his or her severe mental disorder, the person represents a substantial danger of physical harm to others.

(4) Existing law requires that a hearing be held on the petition filed under the provision described in paragraph (3) above. Existing law provides, with respect to that hearing, the need for continued treatment shall be proven "beyond a reasonable doubt."

This bill would, instead, provide that the "beyond a reasonable doubt" standard of proof applies to all matters considered in that hearing.

(5) Existing law provides that the above-described provisions pertaining to mentally disordered offenders apply to persons incarcerated before, as well as after, January 1, 1986.

This bill would, instead, provide that these provisions apply to persons who committed their crimes on and after January 1, 1986.

(6) The bill also would require the Department of Corrections, and the State Department of Mental Health, in conjunction with the Board of Prison Terms, to submit specified reports concerning the mentally disordered offender program to the Legislature.

(7) The bill would set forth certain legislative findings.

(8) The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

The term "severe mental disorder" means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term "severe mental disorder" as used in this section does not

include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

The term "remission" means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, that the prisoner used force or violence or caused serious bodily injury in committing the crime referred to in subdivision (b), and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (1) the prisoner has a severe mental disorder, or (2) that the disorder is not in remission or cannot

be kept in remission without treatment, or (3) that the severe mental disorder was a cause of, or aggravated the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) Only if both independent professionals who evaluate the prisoner pursuant to paragraph (2) concur with the chief psychiatrist's certification of the issues described in paragraph (2), shall the provisions of this subdivision be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) was a crime in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (5) of subdivision (e) of Section 243.

(f) As used in this chapter, "substantial danger of physical harm" does not require proof of a recent overt act.

SEC. 2. Section 2966 of the Penal Code is amended to read:

2966. (a) A prisoner may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner meets the criteria in Section 2962. At the hearing, the burden of proof shall be on the person or agency who certified the prisoner under subdivision (d) of Section 2962. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978. The prisoner shall be informed at the hearing of his or her right to request a trial pursuant to subdivision (b). The Board of Prison Terms shall provide a prisoner who requests a trial, a petition form and instructions for filing the petition.

(b) A prisoner who disagrees with the determination of the Board of Prison Terms that he or she meets the criteria of Section 2962, may file in the superior court of the county in which he or she is incarcerated or is being treated a petition for a hearing on whether he or she, as of the date of the Board of Prison Terms hearing, met the criteria of Section 2962. The court shall conduct a hearing on the petition within 60 calendar days after the petition is filed, unless either time is waived by the petitioner or his or her counsel, or good cause is shown. The order of the Board of Prison Terms shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing; however, in order to reduce costs, the rules of criminal discovery, as well as civil

discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney.

(c) If the Board of Prison Terms continues a parolee's mental health treatment under Section 2962 when it continues the parolee's parole under Section 3001, the procedures of this section shall only be applicable for the purpose of determining if the parolee has a severe mental disorder, whether the parolee's severe mental disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of his or her severe mental disorder, the parolee represents a substantial danger of physical harm to others.

SEC. 3. Section 2970 of the Penal Code is amended to read:

2970. Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital which is treating the parolee, or the county mental health director in charge of the parolee's outpatient program, or the Director of Corrections, shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits.

The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition shall also specify that the prisoner has a severe mental disorder, that the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and that, by reason of his or her severe mental disorder, the prisoner represents a substantial danger of physical harm to others.

SEC. 4. Section 2972 of the Penal Code is amended to read:

2972. (a) The court shall conduct a hearing on the petition under Section 2970 for continued treatment. The court shall advise the person of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing, however, in order to reduce costs the rules of criminal discovery, as well as civil discovery, shall be applicable.

The standard of proof under this section shall be proof beyond a

reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless the time is waived by the person or unless good cause is shown.

(b) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(c) If the court or jury finds that the patient has a severe mental disorder, that the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and that by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which he or she was being treated at the time the petition was filed, or committed to the State Department of Mental Health if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in Section 2970.

(d) A person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this subdivision, the provisions of Title 15 (commencing with Section 1600) of Part 2, shall apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 shall be that the person cannot be safely and effectively treated on an outpatient basis.

(e) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others. The recommitment proceeding shall be conducted in accordance with the provisions of this section.

(f) Any commitment under this article places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

(g) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and he or she shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is

being held. This subdivision and the regulations adopted pursuant thereto shall become operative on January 1, 1987, except that regulations may be adopted prior to that date.

SEC. 5. Section 2980 of the Penal Code is amended to read:

2980. This article applies to persons who committed their crimes on and after January 1, 1986.

SEC. 6. It is not the intent of the Legislature to directly or indirectly imply by this act that courts may not use the standard of evidence accepted by the court in *People v. Beard*, 173, Cal. App. 3d 1113, in cases arising under Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

SEC. 7. (a) The Department of Corrections and the State Department of Mental Health, in conjunction with the Board of Prison Terms, shall submit a report to the Legislature on or before September 30, 1990, on the following:

(1) A description of the disposition of cases of patients released from treatment under the mentally disordered offender program following the invalidation of that program by the Court of Appeal in *People v. Gibson* (204 Cal. App. 3d 1425), including discussion regarding any subsequent acts recorded by the Department of Justice, the State Department of Mental Health, and the Department of Corrections, to the extent resources are available.

(2) A description of the criteria used to select which prisoners are personally evaluated for possible treatment under the mentally disordered offender program, and the criteria used to determine which of those prisoners are to be treated under the program.

(b) The Department of Corrections and the State Department of Mental Health, in conjunction with the Board of Prison Terms, shall submit an annual report to the Legislature on the status of the mentally disordered offender program on or before December 31, 1991, and on or before December 31 each year thereafter through 1996, which shall include all of the following:

(1) The following information on persons committed to the mentally disordered offender program on or after July 1, 1989, who have exhausted their rights under Section 2966 of the Penal Code.

(A) The duration of treatment for those patients selected for the mentally disordered program, including both inpatient and outpatient treatment.

(B) The number of mentally disordered offender patients returned to custody or to a hospital due to the commission of a new crime, to the extent this information is available from the Department of Justice, or due to parole revocation.

(C) The number of parole revocations of persons who have been treated previously under the mentally disordered offender program and the reasons for the revocations.

(D) The number of parole revocations for all parolees whose parole was revoked based upon psychiatric reasons pursuant to Section 2646 of Title 15 of the California Code of Regulations.

(E) Information regarding recidivism rates for criminal conduct by persons previously treated under the mentally disordered offender program to the extent this information is available from the Department of Justice.

(F) Any other information that would be useful to the Legislature in evaluating the performance of the mentally disordered offender program.

(2) A summary description of the number and disposition of cases of all prisoners who are personally clinically evaluated on and after July 1, 1989, by the Department of Corrections and the State Department of Mental Health for possible treatment under the mentally disordered offender program, including disposition of any hearing or court proceedings. The report also shall contain a brief explanation, as the departments deem appropriate, to explain the data.

(c) The Department of Corrections and the State Department of Mental Health, in conjunction with the Board of Prison Terms, shall provide a preliminary report to the Legislature on or before December 31, 1990, describing the report protocol they intend to use for the report required under subdivision (b) and any problems which they anticipate.

(d) The reports required under this section shall be submitted to the Assembly Committee on Public Safety and to the Senate Judiciary Committee.

(e) Notwithstanding any other provision of law, the Department of Justice, the Department of Corrections, the State Department of Mental Health, and the Board of Prison Terms shall make available any information required for purposes of this section. Any confidential information obtained pursuant to this subdivision may be used for purposes of preparing the reports required by this section, but the information shall not be used in any way that discloses confidential information, nor shall that confidential information be used for any other purpose.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Court of Appeal in *People v. Gibson* (204 Cal. App. 3d 1425) declared part of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code in violation of the equal protection clause of the United States Constitution because it does not require proof the person represents a substantial danger of physical harm to others by reason of his or her severe mental disorder. In order to keep the mentally disordered offender program in effect for those persons who committed their crimes on or after January 1, 1986, it is necessary that this act take effect immediately.

APPENDIX II

California Department of Corrections ADMINISTRATIVE BULLETIN Subject: Implementation of Revisions to PC 2960-81 (Mentally Disordered Offender Act)	Number: 89/71
	Date: November 9, 1989
	Cancellation Date:

This Administrative Bulletin (AB) directs changes which became law when the Governor signed revised urgency legislation (Senate Bill 1625) on July 27, 1989 which became effective immediately upon that date to re-establish a modified Mentally Disordered Offender (MDO) act under Penal Code Sections 2960-81 (excluding 2974). This AB replaces the temporary "re-implementation" AB 89/45 prepared in anticipation of the Governor's signature. The law requires treatment by the Department of Mental Health (DMH) as a condition of parole for prisoners who meet the criteria described below. This amended law now only applies to persons whose crime was committed on or after January 1, 1986, and makes other changes in criteria and procedures.

SCREENING

1. The facility Classification and Parole Representative (C&PR) shall coordinate screening of prisoners including parole violators using the following screening criteria:
 - a. Scheduled to be released or re-released to parole within nine months;
 - b. Categorized as "I", "J", "K", "T", "U", or "V" or receiving psychiatric treatment provided by a mental health professional (which may simply be antipsychotic or antimanic medication);
 - c. The commitment offense
 - i. occurred on or after January 1, 1986;
 - ii. includes, but it is not limited to, one of the following Penal Code sections:

187, 187 2nd	243	404
189	245	451
192	246	452
203	261	667.51(c)*
207	261.2	667.7*
209, 209(a), 209(b)	262	4500
211	264	12020*
212.5	273(a), 273(b)	12021*
217, 217.1	286	12022*
218	288	12022.8*
219.1	288A(c)	12025*
220	288A(d)	12060*
240	289	
242	347	

*Terms received for these Penal Code Sections are considered enhancements.

California Department of Corrections ADMINISTRATIVE BULLETIN Subject:	Number:
	Date:
	Cancellation Date:

Page 2

2. A list of cases meeting these criteria shall be submitted on an ongoing basis, at least six months before the prisoners' earliest possible release dates, if possible.
3. This list shall be forwarded by the facility C&PR to the facility Chief Psychiatrist or Chief Medical Officer (or designee), and DMH Headquarters MDO Coordinator at the following address:

Department of Mental Health
 MDO Coordinator
 Forensic Services Branch, Room 101
 1600 9th Street
 Sacramento, CA 95814

Telephone: (916) 323-9301 or ATSS 473-9301

EVALUATION

The respective California Department of Corrections (CDC) C&PR and the respective DMH Forensic Coordinator shall ensure coordination of the other department's MDO evaluations, including provision for adequate secure space for the interviews, access to the medical records and Central Files and ensuring that the prisoners are present for the interviews. The DMH Inpatient Unit at the California Medical Facility (CMF) shall be considered a DMH treatment facility for purposes of this act.

For each individual screened by the C&PR as meeting the screening criteria, a CDC facility psychiatrist or psychologist shall prepare a written evaluation addressing the following criteria:

1. The prisoner has a severe mental disorder (as defined).
2. The crime for which the prisoner was sentenced to prison was committed on or after January 1, 1986, and was a crime in which the prisoner used force or violence and/or caused serious bodily injury (as defined).
3. The severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior.
4. The severe mental disorder is not in remission or cannot be kept in remission without treatment (as defined).

California Department of Corrections ADMINISTRATIVE BULLETIN Subject:	Number:
	Date:
	Cancellation Date:

Page 3

5. The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her scheduled parole release date.
6. The prisoner represents a substantial danger of physical harm to others by reason of his or her severe mental disorder.

Prisoners evaluated as meeting these criteria shall be transferred to CMF, California Men's Colony (CMC) or California Institution for Women (CIW), if not already housed at these institutions, for further coordination under authority of MDO.

CERTIFICATION

The facility Chief Psychiatrist (or designee) shall complete the Certification of Mentally Disordered Offender (form JC 8000) (see attached). If the certification is positive or if there are interpretive concerns or if the case is one of notoriety, the facility C&PR shall forward to the departmental Chief Psychiatrist the following:

1. CDC and DMH evaluations (each forwarded case)
2. Chief Psychiatrist's Certification of MDO (each forwarded case)
3. Abstract of Judgment (each forwarded case)
4. Probation Officer's Report (each forwarded case)
5. CDC Form 112 (entire chronological history - each forwarded case)
6. Legal Status Summary (face sheet - each forwarded case)
7. Hospital discharge summary (when appropriate)
8. Consultant Reports (when appropriate)
9. Physician Progress Notes (when appropriate)
10. CDC Form 115 report(s) for past year (when appropriate)
11. CDC Form 128C report(s) (when appropriate)
12. Additional documentation as deemed appropriate by facility Chief Psychiatrist and/or C&PR.

California Department of Corrections ADMINISTRATIVE BULLETIN Subject:	Number:
	Date:
	Cancellation Date:

Page 4

If the Chief Psychiatrist does not certify the case as meeting the MDO criteria the facility C&PR shall forward the CDC and DMH evaluations to the departmental Chief Psychiatrist.

(The departmental Chief Psychiatrist may assist CIW psychiatric staff by preparing and signing the Certification of MDO.)

Upon receipt of the above documents from the institution, the Office of Health Care Services (OHCS) shall make the determination as to whether the criteria of PC 2962 have been fully addressed. For each case certified as meeting the criteria, one set of documents, including the respective Chief Psychiatrist's original signed certification, shall be forwarded for inclusion in the Board of Prison Terms (BPT) section of the prisoner's Central File. A duplicate set of documents, including a copy of the respective Chief Psychiatrist's certification, shall be forwarded by Central Office's OHCS to BPT. The BPT shall evaluate the case and determine the need for treatment in DMH as a condition of parole. If there is a need for additional information, the BPT shall refer the case back to the departmental Chief Psychiatrist.

CDC and DMH shall make every effort to provide documentation to the BPT to expedite the BPT's ability to notify the appropriate facility's C&PR, via BPT Form 1400, as soon as possible prior to EPRD or RRD/PRRD that:

1. It has ordered that the prisoner be treated by the DMH. The order shall be written on the BPT 1400 Certification Review form; or,
2. It disagrees with the certification and the Department is to proceed with other parole procedures; or,
3. It has returned the certification as it is unable to proceed with a BPT decision.

If treatment by DMH has been ordered by BPT as a condition of parole, CDC staff shall serve the prisoner with conditions of parole (CDC Form 1515) including the special condition of parole of treatment by DMH pursuant to Penal Code Section 2962 as well as any other conditions of parole. The prisoner shall be informed in writing of the right to request a hearing.

The prisoner has the following options:

1. Accept any and all conditions of parole and be transferred to a DMH facility;

California Department of Corrections ADMINISTRATIVE BULLETIN Subject:	Number:
	Date:
	Cancellation Date:

Page 5

2. Refuse to accept any and all conditions of parole and be scheduled for a parole revocation hearing with counsel pursuant to Penal Code Section 3060.5;
3. Accept any and all conditions of parole and request a Certification Hearing before the BPT.

If the prisoner is transferred to DMH prior to his/her scheduled release date, the Offender Based Information System (OBIS) entry will read, "Temporary Release Out to Hospital". A completed CDC form 801 detainer is to accompany the prisoner to DMH. On the actual release date, the appropriate parole move will be entered into OBIS and include "custody of DMH pursuant to PC 1962" and the DMH facility will be notified to drop the CDC-801 detainer.

Prisoners who agree to treatment shall be transferred to DMH when appropriate. The prisoner shall be processed for transfer to a designated DMH facility no later than the last working day prior to his or her release date, if applicable. If the prisoner requests a hearing, the San Luis Obispo or Sante Fe Springs MDO Coordinator shall notify the BPT to schedule the hearing to take place at the treating facility. The unit supervisor for the unit of record shall be notified of the pending hearing. If additional material becomes available, it shall be sent to the Central Office Chief Psychiatrist by the respective C&PR.

If the hearing results in a decision not to require treatment in DMH, the prisoner shall be paroled without such condition and shall be evaluated for placement under other authority. The Parole Unit shall be notified immediately of the release in order to arrange transportation. Parolees ordered released to the community who may present an immediate threat to the community shall not be released directly to the local area but shall be transported to their community of residence. If the BPT upholds the condition of parole, the prisoner shall receive treatment in DMH.

SUPERIOR COURT TRIAL

If the prisoner files a petition in the Superior Court, and the condition of parole goes to trial, the people shall be represented by the District Attorney's Office. A departmental psychiatrist or psychologist may be present for testimony at the jury trial. The District Attorney's Office shall be responsible for carrying the people's statutory burden of proof.

Departmental representation at BPT or Superior Court hearings scheduled for prisoners at Atascadero State Hospital shall be by a CMC psychiatrist or psychologist. Departmental representation at BPT or Superior Court hearings

California Department of Corrections ADMINISTRATIVE BULLETIN Subject:	Number:
	Date:
	Cancellation Date:

Page 6

scheduled for prisoners at Metropolitan State Hospital shall be by a CIW psychiatrist or psychologist.


P&CSD SUPERVISION RESPONSIBILITIES

Certification for mental health treatment pursuant to this act does not eliminate the requirement that Parole and Community Services Division (P&CSD) shall report behavior to the BPT or violation of BPT imposed special conditions of parole. This policy applies to parolees on inpatient or outpatient status. Also, certification for mental health treatment pursuant to this act does not eliminate the requirement that P&CSD submit annual discharge reports (CDC Form 1632) to the BPT for review and disposition.

This AB rescinds AB 86/62 and AB 89/45.

Please see that all personnel concerned are informed of the contents of this bulletin.

If more detail is required, such as statutory definitions, please refer to Penal Code Sections 2960-81 (excluding 2974) (copy attached). For assistance, please direct inquiries to the Department's Assistant Deputy Director-Office of Health Care Services, Department's Chief Psychiatrist, or the Central Office MDO Coordinator at ATSS 454-0876 or (916) 324-0876; the Department's Chief of Classification Services at ATSS 492-2544 or (916) 322-2544; the BPT's Chief Counsel at ATSS 492-6729 or (916) 322-6729; or the BPT's Calendar Deputy Commissioner at ATSS 473-0931 or (916) 323-0931.


 JAMES ROWLAND
 Director of Corrections

Attachments

CERTIFICATION OF MENTALLY DISORDERED OFFENDER

(Penal Code sections 2960-2981 [except 2974])

Certification by Chief Psychiatrist

Name of prisoner:

Inmate number:

Inmate's location at time of evaluation:

EPRD: or RRD:

Name of Evaluator

Title & Facility

Phone No.

Date of Evaluation

a.

b.

☐ I certify that in my professional opinion the above-named prisoner **does** meet the criteria of Penal Code section 2962 as follows.

☐ I certify that in my professional opinion the above-named prisoner **does not** meet the criteria of Penal Code section 2962 as shown below.

Check applicable boxes only. Specify facts supporting all conclusions. (Refer to attachments or to other records when appropriate.)

Caveat: This form summarizes only; see PC 2962 for details including statutory definitions of "severe mental disorder," "remission," "followed treatment plan," etc.

1. ☐ The prisoner has a severe mental disorder.
2. ☐ The crime for which the prisoner was sentenced to prison was committed on or after January 1, 1986 and was a crime in which the prisoner
 - a. ☐ used force or violence, and/or
 - b. ☐ caused serious bodily injury as defined in Penal Code section 243 (e) (5).
Commitment Penal Code number, type of offense, and date of offense:

(Continued on reverse)

NAME OF PRISONER:

INMATE NUMBER:

3. ☐ The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which inmate was sentenced to prison. *Facts supporting this conclusion are:*
4. The prisoner's mental disorder
- a. ☐ is not in remission, or
- b. ☐ cannot be kept in remission without treatment due to medical or psychosocial reasons, as evidenced in the past year by the fact the inmate:
- (i) ☐ was physically violent;
- (ii) ☐ made a serious threat of substantial physical harm;
- (iii) ☐ intentionally caused property damage; and/or
- (iv) ☐ did not voluntarily follow the treatment plan.
5. ☐ The prisoner has been in treatment for the severe mental disorder for 90 days or more in the year prior to the scheduled parole or release.
6. ☐ The prisoner represents a substantial danger of physical harm to others by reason of his or her severe mental disorder. (Substantial danger of physical harm does not require proof of a recent overt act. A professional opinion of a psychiatrist or licensed psychologist may constitute sufficient evidence to support a finding that the person represents a substantial danger of physical harm to others by reason of his or her severe mental disorder.)

As a Chief Psychiatrist of the Department of Corrections, I hereby certify that the above-named prisoner meets the criteria of Penal Code section 2962.

Type or Print Name

Signature

Professional Title

License No.

Address

Date

Phone Number

Attachments: