



## ***Psychiatric Security Review Board***

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# **ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES May 26, 2017**

### Members:

James P. Clark, M.D., Chairperson  
Susan Stevens, Esq.  
Paul O'Connell  
Chandrika Shankar, M.D.  
Michael J. Klemens, Ph.D.

### Assistant Attorneys General:

Thomas Raine, Esq., for the Psychiatric Security Review Board  
Louis Caputo, Esq., for the Arizona State Hospital

### Staff:

Jaime L. Shapiro, Executive Director

### Guests Present and/or Participating:

Aaron Nelson, ASH	Jon Strickler, Cenpatico
Alice Pickering, ASH	Julian Lockhart
Andrew Blischak, Esq.	Julie Jackson, ASH
Billie Jo Peters	Kennedy C. Klagge, Esq., Yavapai County Deputy Public Defender ☎
Brenda Wise, AHCCCS	Lindsay Arendt, ASH
Brian Beckette, La Frontera	Lindsey Cooley
Chester B. McLaughlin, Esq.	Lynda Borhauer
Cole Arigoni, MMIC	Mamuna Ahmad, M.D., ASH
Danielle Weston, ASH	Manuel Gray, La Frontera
Diane Wagner, ASH	Michelle Meigh, AZ Mentor
Dumle Kunenu, ASH	Patricia Cooley
Emily Miles	Patrina Yazzie, MMIC
Janella Proctor, Mentor Network	
Janine Rodriguez	

Rick Molina, Community Bridges, Inc.  
Samantha Miller, ASH  
Samantha O’Neal, AHCCCS  
Sheridyn Miller, ASH  
Sherry Cooley

Stephanie Lucero  
Tammy Wray, Esq., Maricopa County  
Deputy Public Defender  
Tracy Linkes ☎  
Wayne Phifer

☎ Participated Telephonically

**Call To Order:**

James Clark called the meeting to order at 1:04 p.m. and read the Executive Session Confidentiality Statement:

“Minutes of and discussions made in executive session are required by law to be kept confidential and shall not be communicated to any person outside this meeting room, except to members of the Board, a person who is the subject of the discussion pursuant to Arizona Revised Statutes (A.R.S.) §38-431.03(A)(1), the auditor general in connection with an audit authorized by law and the attorney general.”

Dr. Clark swore in individuals who anticipated testifying.

**Statutory Hearings:**

**James Thomas Ochoa – PSRB No. 14-03**

James Ochoa was present with his attorney, Andrew W. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 1:06 p.m. to 1:12 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended a court-ordered evaluation for civil commitment prior to the PSRB’s end of jurisdiction over Mr. Ochoa occurring on July 25, 2017.

Dr. Clark and Louis Caputo briefly discussed whether there would be a “doctor-to-doctor” phone call during the discharge process. Mr. Caputo said while he understands the concern, he could not speculate as to what conversations might take place. Jaime Shapiro said that she provided the Board materials to the Pima County Attorney, who would transfer the record to the evaluating facility, if the Board should vote for a court-ordered evaluation for civil commitment.

A motion was made by Susan Stevens, seconded by Paul O’Connell and passed unanimously that the PSRB order the Pima County Attorney to initiate civil commitment proceedings for James Ochoa, pending the expiration of the PSRB’s jurisdiction based on the evidence presented, and that the Arizona State Hospital’s treatment team be allowed to conditionally

release Mr. Ochoa to the custody of an appropriate law-enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

**Darrek John Skurja – PSRB No. 15-06**

Darrek Skurja was present with his attorney, Kennedy C. Klagge, who appeared telephonically. The statutory hearing was held from 1:13 p.m. to 1:23 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended Conditional Release to the State Hospital; Phase One, Levels One and Two.

Dr. Clark summarized the Board's materials and ASH's recommendation. Ms. Klagge requested that the Board adopt the recommendation for conditional release. Dr. Clark asked the ASH treatment team if Mr. Skurja had shown any remorse for the crime committed.

A motion was made by James Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 1:16 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in open session at 1:22 p.m.

A motion was made by Paul O'Connell, seconded by Michael Klemens and passed unanimously to approve Derrek Skurja for conditional release to Arizona State Hospital, Phase One, Levels One and Two, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Skurja's mental disease or defect is in stable remission and he is not dangerous if he remains a resident of the State Hospital and is compliant with the terms of conditional release and the treatment plan presented today.

**Wayne Charles Phifer – PSRB No. 09-09**

Wayne Phifer was present with his attorney, Chester B. McLaughlin. The statutory hearing was held from 1:24 p.m. to 1:47 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended a step-down in residential supervision from a 24-hour facility to a 16-hour facility.

Mr. McLaughlin called Jon Stricker, RBHA Care Manager at Cenpatico, to testify. Mr. Strickler gave extensive testimony with regard to his role in monitoring Mr. Phifer's progress through recovery and compliance with the terms of his conditional release. Mr. Strickler discussed many aspects of Mr. Phifer's growth through an extended period of sobriety and mental stability.

Brian Beckette, Mr. Phifer's case manager provided a brief explanation of the differences between a 24-hour and 16-hour residential facility.

Janella Proctor, Program Coordinator at Mr. Phifer's residence, was present and testified that Mr. Phifer has been a model resident, is a role model for other residents and contributes to the overall positive environment in the house.

Mr. Phifer addressed the Board and provided an explanation of how a less-restrictive residential setting will allow him to move forward in his life. Extensive discussion was held among Board members, Mr. Strickler and Mr. Phifer as to medication monitoring, peer support training, social supports and the transition to Tucson, Arizona.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed unanimously to approve the outpatient team's recommendation, based on the evidence presented, to allow Mr. Phifer to step down from a 24-hour facility to a 16-hour flex-care plus, co-occurring facility.

After the motion, it was clarified that Cope Community Services will be monitoring Mr. Phifer.

**Julian Lockhart – PSRB No. 07-16**

Julian Lockhart was present with his attorney, Tammy Wray. The statutory hearing was held from 1:48 p.m. to 1:55 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended that Mr. Lockhart be allowed to self-administer his medications.

Dr. Clark referred the Board to the letter of recommendation from Mr. Lockhart's treating psychiatrist, Danielle Pyevich. Ms. Wray said that Mr. Lockhart has been in the community since 2012, and has consistently done very well. She added that Mr. Lockhart has less than one year until the end of his sentence and this would be a final step until he is fully independent.

A motion was made by James Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 1:50 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in open session at 1:55 p.m.

In open session, a motion was made by Paul O'Connell to grant the request to allow Mr. Lockhart to self-administer his medications. Thomas Raine asked Mr. O'Connell if he would

accept an amendment to include in his motion that the therapeutic medication level be included in the monthly conditional release reports. Mr. O'Connell accepted the amendment; the motion was seconded by Susan Stevens and passed unanimously.

**Billie Jo Peters – PSRB No. 03-09**

Billie Jo Peters was present with her attorney, Tammy Wray. The statutory hearing was held from 1:56 p.m. to 2:37 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended a step-down from a 24-hour supervised facility to a 16-hour supervised facility.

Ms. Wray shared that Ms. Peters was released from ASH in November of 2016; she has met and exceeded the terms of conditional release and is ready to step-down to a 16-hour supervised facility.

Tracy Linkes, Ms. Peters' sister, was teleconferenced into the hearing and was sworn in. She said that she is in full support of the recommendation and she is confident that her sister will be successful.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 2:03 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in open session at 2:29 p.m.

In open session, Patrina Yazzie was sworn in and made recommendations as to the Board's options for additional monitoring.

After discussion, a motion was made James Clark, seconded by Chandrika Shankar and passed 4 – 1 to approve the recommendation to allow Ms. Peters to step-down from a 24-hour facility to a 16-hour flex-care plus residential treatment facility; that Billie Jo Peters, the assigned RBHA Care Manager and a member of the clinical team will participate in weekly, in-person staffings for the next six months; and that the monthly conditional release reports include the therapeutic medication level at least quarterly, and more often if the level is not in a therapeutic range.

*Michael Klemens opposed the motion citing a significant AWOL risk and that Ms. Peters has had too brief a period of time on the community. He did not believe Ms. Peters was stable enough for a reduction in monitoring at that time.*

After discussion, motion was made by James Clark, seconded by Susan Stevens and passed unanimously to reset this matter for 6 months so that the Board can review Ms. Peters' progress.

**Gavin Trent Macfarlane – PSRB No. 13-10**

Gavin Macfarlane was present with his attorney, Tammy Wray. The statutory hearing was held from 2:38 p.m. to 3:02 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Ms. Wray shared that Mr. Macfarlane has recently moved units and has had a change in medication and he has a more positive outlook toward his treatment.

A motion was made by James Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 2:40 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in open session at 2:57 p.m.

In open session, a motion was made by James Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 2:58 p.m. to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

After consideration in executive session, the Board reconvened in open session at 3:02 p.m.

In open session, Lindsay Cooley, niece of Adam Cooley who was killed during the course of Mr. Macfarlane's crimes, gave a heartfelt testimony on her family's behalf. She told the Board about Mr. Cooley's life and relationships with his family members, described a family function the night before Mr. Cooley was murdered and discussed the lasting impact her uncle's death has had on each member of the family. Ms. Cooley urged the Board to deny any request for release.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed unanimously that the PSRB deny conditional release for Gavin Macfarlane based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Macfarlane did not prove by clear and convincing evidence that he no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that he is no longer dangerous. Gavin Macfarlane shall remain committed to the Arizona State Hospital.

**Discussion, Amendment and Approval of Modifications to Conditional Release to the Community Orders for the Following:**

Jamarall Jordan, PSRB No. 04-01

Charles Vahnmiddlestate, PSRB No. 00-17

Andrew W. Blischak, who appeared on behalf of assigned attorney, John W. Blischak, requested that the Board waive the presence of his clients and informed the Board that neither of the above individuals objected to the proposed changes.

After discussion, a motion was made by James Clark, seconded by Paul O'Connell and passed unanimously to approve the modifications to the Conditional Release to the Community Orders, as amended.

Verbal update from the Board's Attorney regarding Isaac Bonelli, PSRB Case No. 03-01:

Mr. Raine said that Isaac Bonelli was arrested in Harris County, Texas and attended an extradition hearing on Monday, May 22<sup>nd</sup>. Mr. Bonelli will be extradited back to Arizona and the Pima County Sheriff's Office must collect him by June 15<sup>th</sup>. He explained the next two steps in the process that will begin when Mr. Bonelli is returned to ASH.

Verbal update from the Board's Attorney regarding Steven Richard Licon, PSRB Case No. 10-06:

Mr. Raine informed the Board that, on May 16<sup>th</sup>, he and Ms. Shapiro traveled to Apache County to attend a merits hearing regarding the Board's November 4, 2016, motion to transfer Mr. Licon to the Department of Corrections (ADC). Judge Michael Williams heard the case and the Board's decision was re-affirmed at that time. Mr. Licon was sent back to ASH that day and will be transferred to ADC as soon as the order is issued. Mr. Caputo commented on Judge Williams' reasoned approach.

Audit of Boards and Commissions per diem billing procedures.

Ms. Shapiro outlined the statewide audit by the Auditor General's Office and described her meeting with the Auditors in May 3<sup>rd</sup>. Dr. Clark said that he attempted to incorporate all Board member tasks into his policy proposal. Dr. Clark discussed added tasks that a Chairperson or Vice-Chairperson might perform. Extensive discussion ensued about cumulative chart review, what constitutes a day of board business, legislative change, and a new billing form. Mr. Raine said he and Ms. Shapiro will do more research and report back next month.

Persons who are committed to the PSRB's jurisdiction for 25 years to Life.

Discussion ensued among Board members, Board staff, Ms. Wray and Mr. Caputo regarding A.R.S. § 13-3994(D) that states "the court shall state the beginning date, length and ending

date of the board's jurisdiction over the person". Ultimately, Ms. Shapiro was instructed to seek clarification from the sentencing court.

Moving the start time of the regularly scheduled hearings to the morning.

Discussion ensued among Board members, Board staff, Ms. Wray and Mr. Caputo of existing conflicts with the schedules of key participants in the PSRB meetings. The Board decided that Friday afternoons work best for most and said that if Ms. Shapiro wishes to change the date of a regularly-scheduled meeting to accommodate a vacation, she can propose a new meeting date to the Board.

**Discussion, Amendment and Approval of Minutes:**

Open session minutes from the March 31, 2017, meeting.

Executive session minutes from the March 31, 2017 meeting.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the minutes, as drafted.

*Chandrika Shankar and Michael Klemens abstained from the vote.*

General session minutes from the April 28, 2017, meeting.

Executive session minutes from the April 28, 2017 meeting.

After amendments, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to approve the minutes, as amended.

*Paul O'Connell abstained from the vote.*

**Adjournment**

The Board meeting adjourned at 3:57 p.m.