ARIZONA STATE
PSYCHIATRIC SECURITY REVIEW BOARD
OPEN SESSION MINUTES
October 27, 2017

Members:
James P. Clark, M.D., Chairperson
Chandrika Shankar, M.D., Vice-Chairperson
Susan Stevens, Esq.
Paul O’Connell
Michael J. Klemens, Ph.D.

Absent

Assistant Attorney General:
Thomas Raine, Esq., for the Psychiatric Security Review Board

Staff:
Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:
Aaron Nelson, ASH
Alex Myers, ASH
Allison Trau, MARC Community Resources
Allyson Friestleben, ASH
Andrew J. Blischak, Esq.
Anthony Watsula
B.B. Ane Lukau, ASH
Bernardo Garcia, Esq.
Beth Dolobowsky, L.C.S.W., ASH
Brian Beckette, La Frontera-EMPACT
Brian Kociszewski, AHCCCS
Carl Edmark

Charles VahnMiddlestate Edmark
Cole Arigoni, Mercy Maricopa Integrated Care
Daneen Pray
David Joshua, ASH
Dawood Mulla, M.D., ASH
Diane Wagner, L.M.S.W., ASH
Emily Pearce, ASH
Emmalee Vipperman
Innocent Birume, ASH
Jamarall Jordan
James M. Longe
Call To Order:

James P. 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:

John Paul Contreras – PSRB No. 14-14
John Paul Contreras was present with his attorney, Bernardo Garcia. The statutory hearing was held from 1:06 p.m. to 1:11 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase three, levels five and six.

Bernardo Garcia said that Mr. Contreras will meet the supervision requirements of the next privilege phase and urged the Board to follow ASH’s recommendation. Mr. Contreras stated his plans are for obtaining future employment. Clarification was provided as to the activities Mr. Contreras would be doing when off grounds.

A motion was made by Susan Stevens, seconded by Michael Klemens and passed 3 – 0 to approve John Paul Contreras for conditional release to Arizona State Hospital, phase three, levels five and six, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Contreras’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.

Barbara Downey LeBourdais – PSRB No. 99-17
Barbara Downey LeBourdais was not present and her attorney, Stefanie Jones-Campbell, waived her presence. The statutory hearing was held from 1:12 p.m. to 1:28 p.m. pursuant to A.R.S. § 13-3994(H). The PSRB considered Board staff recommendations to update Ms. LeBourdais’s terms of conditional release.

Ms. Jones-Campbell stated that it is her understanding that this recommendation to update the terms of conditional release comes from the Board staff’s effort to standardize. Thomas Raine concurred and explained that, after modifying the existing orders of conditional release to the community due to Arizona Health Care Cost Containment System (AHCCCS) gaining oversight over PSRB patients in the community, PSRB staff found that many general supervisory terms in the older orders required updating. Ms. LeBourdais’s order was not modified then because she did not have Title 19 benefits.

Ms. Jones-Campbell stated that some of the proposed changes have the effect of increasing supervision over Ms. LeBourdais.

Stacey Heard, Pinal County Deputy Attorney, stated that the State agrees particularly with the effort to standardize requirements for change of address and prohibition of possession of
weapons. Ms. Jones-Campbell argued that her client has moved without having to get the Board’s approval and has shown compliance with that term. To place Ms. LeBourdais under more restrictive terms appears punitive.

Board staff pointed out several items on the proposed order and asked the Board for direction. The terms regarding a waiver of extradition, victim contact restriction, and monthly reports and AWOL reporting were discussed and Mr. Raine recommended to the Board that the provisions remain in the order. Discussion ensued.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the draft order, as written, and to amend item III. B. to strike “from the assigned place of residence”; and add “from her residence”.

Peter Rice Sherman – PSRB No. 10-06
Peter Sherman was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:29 p.m. to 1:59 p.m. pursuant to A.R.S. § 13-3994(H). Board staff placed this item on the agenda to reconsider the Board’s previous vote for conditional release due to the lack of documentation. ASH recommended conditional release to the Hospital, phase two, level three.

Dr. Clark said last month the Board approved Mr. Sherman for conditional release to the Hospital, phase one, level two, without a conditional release plan. Ms. Jones-Campbell said Mr. Sherman has no objection to the recommendation. Board members, Ms. Jones-Campbell and ASH staff discussed new safeguards in place and Mr. Sherman’s remorse for the surveillance violation.

A motion was made by Dr. Clark, seconded by Susan Stevens for ASH to return in one month with a proposed conditional release plan for phase one, level two. Laxman Patel said that conditional release to the Hospital, phase two, level three, is ASH’s position and will not return with a recommendation other than that. Dr. Clark asked what a fallback plan would be, and Dr. Patel said Mr. Sherman had no malicious intent when he committed the surveillance violation.

A motion was made by James Clark to deny the request for conditional release to ASH, phase two, level three.

Dr. Patel stated that he and James Homes assessed Mr. Sherman and he is at no greater risk than he was before the violation. Ms. Jones-Campbell said that if the Board voted to deny, it would have a punitive action and asked the Board to approve ASH’s proposed plan.
Board staff restated the two motions on the table at that point. Mr. Raine recommended that the first motion be withdrawn. Dr. Clark withdrew the first motion.

Dr. Clark restated his motion to deny conditional release to the Hospital, phase two, level three. Susan Stevens seconded the motion and it passed 3 – 0.

A motion was made by James Clark, seconded by Michael Klemens for the State Hospital return next month with a proposed conditional release plan for phase one, level two. Louis Caputo objected citing that the PSRB has no authority over ASH. Mr. Raine advised the Board to restate the motion.

A motion was made by James Clark to request that ASH return to next month’s meeting with a proposed conditional release plan for phase one, level two. Before the motion could be seconded, Mr. Jones-Campbell asked if she could make the request for her client to be on the agenda and said that the discussion was becoming convoluted. Mr. Raine suggested that, if such a document was available, ASH submit a proposed conditional release plan and the Board could approve it then. Dr. Patel said ASH will return with the same recommendation for phase two, level three.

Dr. Clark called for a vote and Ms. Jones-Campbell interjected saying that the PSRB can order what it wished. Mr. Raine asked if ASH was willing to provide a proposed plan for phase one, level two and Dr. Patel said ASH would provide a phase two, level three plan.

Dr. Clark again called for a vote, and Ms. Jones-Campbell argued that ASH staff had six weeks to assess Mr. Sherman and phase two, level three was the appropriate treatment recommendation.

A motion was made by Susan Stevens, seconded by James Clark and passed 3 – 0 to recess into executive session at 1:47 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 1:53 p.m.

In open session, a motion was made by Susan Stevens, seconded by Michael Klemens and passed 3 – 0 that, given the Arizona State Hospital’s unwillingness to provide a conditional release plan for phase one, level two, the Board rescinds the September 29, 2017, motion to approve Mr. Sherman for conditional release.
Ms. Jones-Campbell requested that the Board make a finding. Mr. Raine clarified that the Board is making that motion upon the fact that the terms of conditional release were not provided to the Board. Ms. Jones-Campbell said that this was not compliant with statute.

Dr. Clark shared his concerns about chronicity, history of multiple hospitalizations, failure under supervision, a previous incident when Mr. Sherman was left behind by a pass supervisor, and before Dr. Clark could complete his statement Ms. Jones-Campbell interjected arguing that her client did the right thing then by phoning ASH staff when left behind. Dr. Clark continued, citing an apparent lack of vetting pass supervisors, the seriousness of non-compliance with terms of conditions of release. Dr. Clark further cited that the vote in August to bypass phase three of conditional release to the Hospital and approve Mr. Sherman for conditional release to the community was, in retrospect, premature.

Mr. Caputo objected to the rescission stating the action was not properly noticed on the agenda and objected to the vote to deny conditional release citing that the finding was not based on clear and convincing evidence.

James Marshall Longe – PSRB No. 11-12
James Longe was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 2:00 p.m. to 2:05 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Daneen Pray and Emmalee Vipperman were teleconferenced into the hearing. Ms. Jones-Campbell stated that her client has no objection to ASH’s position at this point.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to deny conditional release for James Marshall Longe based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Longe 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. James Marshall shall remain committed to the Arizona State Hospital.

Anthony William Watsula – PSRB No. 09-13
Anthony Watsula was present with his attorney, Tammy Wray. The statutory hearing was held from 2:06 p.m. to 2:25 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended independent living.

Ms. Wray stated that Mr. Watsula has done very well in the community. She pointed out four core factors identified in the September 2016 Risk Assessment critical to Mr. Watsula’s
success in the community and shared that Mr. Watsula continues to follow those recommendations. Mr. Watsula has done well in the 16-hour home and the team supports his move to independent living. It was clarified that twice-daily medication observations and weekly staffings with his Assertive Community Treatment (ACT) Team will continue.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:09 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 2:18 p.m.

A motion was made by James Clark, seconded by Susan Stevens to approve the outpatient treatment team’s recommendation for independent living, and note that the ACT services will stay in place.

After discussion, Dr. Clark amended his motion to amend Anthony Watsula’s term of conditional release to the community, based on the evidence presented by the outpatient treatment team, that Mr. Watsula’s mental disease or defect remains in stable remission and he is not dangerous if he resides independently in the community and is compliant with the terms of conditional release. The amended motion was seconded by Susan Stevens and the motion passed 3 – 0.

**Michael Gene Robinson – PSRB No. 10-07**

Michael Robinson was present telephonically with his attorney, Trent R. Buckallew. The statutory hearing was held from 2:26 p.m. to 2:29 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation for change.

Michael Robinson was teleconferenced into the hearing.

Trent Buckallew requested that the PSRB continue Mr. Robinson on his current status. It was clarified that Mr. Robinson participates in daily medication observation and continues to engage in substance abuse group therapy.

A motion was made by Susan Stevens, seconded by Michael Klemens and passed 3 – 0 for no status change, based on the evidence presented that Mr. Robinson remains in stable remission and is not dangerous.
John Michael Lewis, Jr. – PSRB No. 08-04
John Lewis was present with his attorney, Timothy J. Eckstein. The statutory hearing was held from 2:30 p.m. to 2:52 p.m. pursuant to A.R.S. § 13-3994(H). The PSRB set this hearing and the outpatient treatment team recommended a change of address.

Dr. Clark stated that there was an email chain between PSRB staff and the outpatient treatment team discussing changes in Mr. Lewis’s status that led to the decision to ask Mr. Lewis to appear before the PSRB.

Timothy Eckstein shared that Mr. Lewis’s homeownership was creating a financial stress, so he sold his house and is requesting the Board’s permission to move into an apartment. He added that the treatment team has no concerns with the move.

A motion was made by Michael Klemens, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:31 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 2:41 p.m.

In open session, PSRB staff pointed out some administrative updates to the conditional release to the community order drafted for Mr. Lewis and asked the Board to weigh in.

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

A motion was made by James Clark to approve the recommendation to allow Mr. Lewis to change his residential address, noting that ACT services continue, and that the outpatient treatment team will assist Mr. Lewis in obtaining Social Security Disability Insurance (SSDI).

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:48 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 2:51 p.m.

In open session, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 that, based on assurances by the outpatient treatment team that Mr. Lewis will continue to be monitored by an ACT team, will be engaged in treatment, will receive assistance in the
application for SSDI, Mr. Lewis remains in stable remission and is not dangerous, the PSRB approves the recommendation for the change of residential address.

**Roy Stephen Chastain – PSRB No. 15-09**

Roy Chastain was present with his attorney, Ronald D. Wood. The statutory hearing was held from 2:53 p.m. to 3:02 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation at that time.

Patrick Zinicola, Navajo Deputy County Attorney, was teleconferenced into the hearing.

Johanna Lippert clarified that item seven in the report refers to Mr. Chastain’s psychiatric illness. Mr. Wood stated that Mr. Chastain would like to urge the Board to hear his matter again as quickly as possible.

A motion was made by Susan Stevens, seconded by Michael Klemens and passed 3 – 0 to deny conditional release for Roy Stephen Chastain based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Chastain 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. Roy Chastain shall remain committed to the Arizona State Hospital.

**Louis Hurtado Tapia – PSRB No. 10-11**

Louis Tapia was present with his attorney, Nora Greer. The statutory hearing was held from 2:56 p.m. to 3:02 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended independent living with family.

Nora Greer explained that in August, the PSRB granted independent living, however, there were no housing vouchers available. Mr. Tapia said that he would be living with his mother. Ms. Greer added that Mr. Tapia’s mother is very involved in his treatment and care. Jonathan Tekle, Mr. Tapia’s case manager, was sworn in and testified as to Mr. Tapia’s current treatment including daily attendance to groups and substance abuse treatment and stated that Mr. Tapia’s mother is a great support to him.

A motion was made by Michael Klemens, seconded by Susan Stevens and passed 3 – 0 to approve Mr. Tapia for independent living with family at an address that will provided to the PSRB.
Kyle Andre Jackson – PSRB No. 14-10
Kyle Jackson was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 3:03 p.m. to 3:12 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase one, levels one and two.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 3:03 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 3:12 p.m.

In open session, a motion was made by Michael Klemens, seconded by Susan Stevens and passed 3 – 0 to approve Kyle Jackson 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. Jackson’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.

John David Reber – PSRB No. 13-06
John Reber was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 3:13 p.m. to 3:16 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended that Mr. Reber continue on his current privilege level.

This hearing was continued from last month for an updated report and conditional release plan.

A motion was made by James Clark, seconded by Michael Klemens and passed 3 – 0 to approve John Reber 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. Reber’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.

Charles Robert VahnMiddlestate Edmark – PSRB No. 00-17
Charles VahnMiddlestate Edmark was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held
from 3:17 p.m. to 3:29 p.m. pursuant to A.R.S. § 13-3994(M). The Board considered whether Mr. VahnMiddlestate Edmark’s return was justified.

Carl Edmark was teleconferenced into the hearing.

Dr. Clark summarized that Mr. VahnMiddlestate Edmark was returned to ASH for possible violation of the terms of conditional release based on a series of emails which indicated that Mr. VahnMiddlestate Edmark refused to participate in programming and work and had prohibited items in his possession.

Mr. Caputo said that ASH will take no position on whether the return was justified.

Mr. Blischak said that Mr. Edmark became upset when he was not allowed to occupy his group home’s master bedroom due to concerns of too many items accumulated in his possession. It was alleged that Mr. VahnMiddlestate Edmark did not help with household chores, threatened to sue the PSRB Care Coordinator and had a baseball bat and ski poles in his possession, which was a violation of house rules. Mr. Blischak went on to argue that there is very little evidence of mental regression and said that asking too many times for the master bedroom does not constitute a violation of conditional release.

Dr. Clark replied that the severity and impulsivity of the index crime warrant the Board’s highest level of scrutiny and caution, especially when there is a hint that something might be amiss. Based on comments in the email chain, Dr. Clark found it hard not to be concerned about the risk of relapse.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 that Charles VahnMiddlestate Edmark’s return to the Arizona State Hospital was justified, based on the evidence presented, that there was reasonable cause to believe that Mr. VahnMiddlestate Edmark’s mental health deteriorated to the point that he failed to comply with the terms of his conditional release and that Mr. VahnMiddlestate Edmark remain at ASH for further evaluation and treatment, pending a hearing within ninety (90) days to determine whether the PSRB will revoke, modify, or reinstate the Order of Conditional Release.

Discussion was held about when the next hearing would be set.

**Jamarall Jordan – PSRB No. 04-01**
Jamarall Jordan was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 3:30 p.m. to
3:36 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Jordan requested permission to travel out of state.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve Mr. Jordan to travel out of state over the next ninety (90) day period, for up to four (4) days and for Mr. Jordan to submit a urine drug screen within forty-eight (48) hours of his return to Arizona.

The PSRB took a break from 3:37 p.m. to 3:41 p.m.

Discussion, Consideration and Possible Action Related to:

PSRB Reports:
Dr. Clark stated that because the psychologists are now the attending practitioners on some units of the State Hospital, and are writing and submitting the PSRB reports, he asked Steven Dingle, ASH’s Chief Medical Officer, if the reports could be reviewed and signed off by a the treating psychiatrist. Dr. Clark explained Dr. Dingle was very much against this saying it would undermine what he was trying to accomplish with the attending psychologists. Dr. Clark further elaborated on his discussion with Dr. Dingle and said psychiatrists no longer attend staffings, but can attend if they wish, and are focused on medications.

It was decided that this agenda item was worded broadly enough to discuss the requests for ASH providers for status reports of patients. Mr. Caputo said he will consult with ASH staff about the changes previously discussed. It was decided that this item would be placed on a future agenda.

Pass Supervisors:
A possible issue was brought to Dr. Clark’s attention regarding patients going on off-grounds passes with pass supervisors riding in cars with other non-approved people. Dr. Clark had hoped that Dr. Dingle would have been present for this discussion and tabled it for a future agenda. Dr. Klemens said he would be interested in knowing what type of education or training pass supervisors receive. Dr. Patel said there is an informational pamphlet provided to the pass supervisors and said he would ask the social worker in his unit about it.

Verbal Update from Dr. Clark Regarding Law Review and Executive Session for Legal Advice from the Board’s Attorney Regarding Adoption of Rules Pursuant to A.R.S. §31-502(B)(1):
Dr. Clark said the Law Review meeting was somewhat unfocused and not as productive as he thought it could be, however, since this was an initial session, there was a benefit to those attending speaking freely. He suggested Board staff, the Board’s attorney and Ms. Stevens
meet, discuss, and propose changes to the Board at a future meeting. Ms. Stevens commented that it would be helpful to put proposed changes into three tiers. She added that it is fine to delay a little bit, but the changes should be worked out before the 2019 legislative session.

Mr. Raine asked the Board to defer the executive session for legal advice to the December meeting when all members would be present and the Board agreed. Discussion was held about the role of the Assistant Attorney General and processes of rule writing.

**Legal Advice from the Board’s Attorney Regarding the Executive Director’s Duties:**
This item was deferred to a future meeting.

**Discussion, Amendment and Approval of Minutes:**
- Open session minutes from the August 25, 2017, meeting:
- Executive session minutes from the August 25, 2017, meeting:
  A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the open and executive session minutes, as amended in Dr. Clark’s handwritten notes.

- Open session minutes from the September 26, 2017, meeting:
  A motion was made by James Clark, seconded by Michael Klemens and passed 3 – 0 to approve the open session minutes, as amended in Dr. Clark’s handwritten notes.

- Open session minutes from the September 29, 2017, meeting:
- Executive session minutes from the September 29, 2017, meeting:
  A motion was made by James Clark, seconded by Michael Klemens and passed 3 – 0 to approve the open and executive session minutes, as drafted.

**Identification of Future Agenda Items:**
Dr. Klemens stated that he would like to discuss variation in the records submitted to the PSRB.

**Adjournment:**
The Board meeting was adjourned at 4:07 p.m.