



OFFICE OF THE DISTRICT ATTORNEY

COUNTY OF VENTURA, STATE OF CALIFORNIA

GREGORY D. TOTTEN
District Attorney

JANICE L. MAURIZI
Chief Assistant District Attorney

MICHAEL K. FRAWLEY
Chief Deputy District Attorney
Criminal Prosecutions

W. CHARLES HUGHES
Chief Deputy District Attorney
Administrative Services

MICHAEL R. JUMP
Chief Deputy District Attorney
Victim & Community Services

MICHAEL D. SCHWARTZ
Special Assistant District Attorney
Justice Services

R. MILES WEISS
Chief Deputy District Attorney
Special Prosecutions

MICHAEL BARAY
Chief Investigator
Bureau of Investigation

July 17, 2017

Board of Parole Hearings
Attn: Nonviolent Parole Review Process
P.O Box 4036
Sacramento, CA 95812-4036

**Re: Inmate Juan Gabriel Acosta; CDCR #AU5999
Ventura County Superior Court Cases #2012039886, 2014001248, 2013039248
Opposition Letter Due to Board of Parole Hearings August 2, 2017**

Dear Board Members:

This letter is written to recommend denial of early parole for inmate Juan Acosta. This recommendation is based upon:

- 1) The circumstances of the inmate's commitment offenses.
- 2) The inmate's significant criminal history and failure to be crime free.
- 3) The unreasonable risk of violence to the community if released early.

CIRCUMSTANCES OF COMMITMENT OFFENSES

Case # 2014001248

On January 12, 2014, officers went to the inmate's apartment because he had an active felony warrant and had been served with a Colonia Chiques gang injunction. The inmate fled out of his bedroom window. Police pursued on foot and caught him. The inmate had a syringe and heroin in his pocket. The inmate was arrested for possession of a controlled substance, possession of drug paraphernalia, resisting arrest, and violating the gang injunction.

A judge struck the inmate's strike and offered him an executed sentence of 11 years prison, but suspended it and placed him on probation on this case and the others referenced below. A few months later, the inmate violated his probation, and was sentenced to 11 years in prison.

Case # 2013039248

On December 4, 2013, the inmate entered a K-Mart store and attempted to steal an electronic item. Loss Prevention Officer Martiza Perez observed the inmate steal electronic items via video surveillance, and contacted the inmate outside of the store. The inmate said, "Here's your shit," and Perez retrieved a speaker system and music player from the inmate. On January 2, 2014, a complaint for violation of Penal Code section 666(a), petty theft with priors, was filed. The inmate was convicted, and sentenced to 36 months probation.

Case # 2012039886

On November 7, 2012, Timothy Swavely was employed as a loss prevention officer at Fry's Electronics. Swavely's attention was drawn to the inmate as he entered the business because he recognized the inmate from two prior thefts. Swavely watched on video as the inmate concealed a \$229 GPS Navigation Unit in his front waistband and continued walking through the store. The inmate bypassed open and manned cash registers before exiting the store. Swavely pursued the inmate and told him to drop the merchandise. The inmate dropped the merchandise and fled on foot. Swavely then called the Oxnard Police Department.

Officer Odelheide was dispatched to the scene to interview Swavely. During the interview, they both noticed via video surveillance that the inmate was sitting inside a car parked outside of the store. Officer Odelheide walked outside and announced his presence as he approached the vehicle. The inmate opened the rear passenger door of his vehicle and fled on foot. Officer Odelheide caught up with the inmate and a struggle ensued on the ground. The inmate punched Officer Odelheide in the chest. The inmate then tried to grab Officer Odelheide's radio as he tried to call for help. The inmate also hit the radio out of Officer Odelheide's hand. The inmate stood up and started to run away. Officer Odelheide deployed his taser, which hit the inmate in the back. After another brief struggle, the inmate was taken into custody.

The inmate was arrested for commercial burglary, petty theft with a prior, and battery against a peace officer. On January 30, 2013, the court granted him release for six hours to attend a funeral on February 2, 2013. The inmate failed to remand himself. The inmate was later convicted of Penal Code section 459, commercial burglary, Penal Code section 69, resisting arrest, and Penal Code section 166(a)(4), disobeying a court order. The inmate was sentenced to probation for a period of 36 months.

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CRIMINAL HISTORY

The inmate has a long criminal history of approximately 35 years and is the very embodiment of a career criminal.

The inmate first began breaking the law at age 13 when he was arrested for attempting to steal from an ice cream vendor. He subsequently was arrested 10 more times as a juvenile, one of which was for fighting while he was in possession of toluene, in violation of Penal Code 381.

As an adult, the inmate committed increasingly more serious crimes. The inmate had been convicted of eight crimes and sentenced to jail several times prior to the following offense.

On September 9, 1993, the inmate and an accomplice approached a residence, and knocked on the front door. The victims heard the knocking, but chose not to answer. The inmate and his accomplice then went to the back of the house and attempted to pry open the backdoor. Next, the inmate returned to the front of the house, opened the garage door, and entered through the attached garage. The inmate and his accomplice stole a purse belonging to the victims, and then fled the residence. Police responded to the scene, and apprehended the inmate after a foot pursuit. The inmate was convicted of Penal Code section 459, first degree burglary, and sentenced to four years in prison, given all his prior offenses.

While serving time for the above offense, the inmate assaulted a fellow prisoner. The victim suffered several cuts and bruises over his torso, hands, and head. A Sheriff's personnel who witnessed the assault described the attack as "vicious."

In 1996, upon release from prison, the inmate stole merchandise from stores at a shopping mall. When security guards confronted the inmate, he struggled with the guards. Given all the inmate's prior offenses, the inmate was sentenced to 44 months in prison, and was paroled in 1999.

When the inmate was paroled in 1999, he was convicted of three more offenses and served jail time for all of them. After being released from jail, the inmate was found to have over two grams of heroin on him, and .07 grams of cocaine. The inmate knocked over a female officer while attempting to flee. Given his prior crimes, the inmate was sentenced to 44 months in prison, and he was paroled in November 2004.

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Just months after his release, the inmate struck a female victim in the face during an argument. The victim suffered a laceration to her lip, and a black eye. The inmate was sentenced to 116 days in jail.

The inmate displayed more violence in April 2010, when he began fighting while at a bar, which was located within his gang's safety zone. The inmate hit the victim with a pool cue during the fight, which broke the pool cue in half. The victim suffered two lacerations on the back of his head, and puncture wounds on his back that were consistent with being stabbed by a knife. The inmate was convicted of Penal Code section 148.9(a), giving a false identity to police, and Penal Code section 166(a)(4), disobeying a court order. The inmate was sentenced to 60 days in jail.

The inmate again demonstrated violence in 2011, when he told a female victim that he is "going to slash [her] throat." The victim had not provoked the inmate, but was merely taking out her trash. The inmate further yelled to the victim that he knew she would be home alone and would, "get [her] and [her] kids." The inmate was holding a box cutter in his hand the entire time he was yelling at the victim. The inmate was charged with Penal Code section 422, criminal threats.

In 2012, the inmate fractured a police officer's hand during a probation search. The inmate was charged with Penal Code section 148(a)(1), resisting arrest.

The inmate has been arrested a total of 44 times.

DISCUSSION

After a judge struck the inmate's strike and offered him an executed global sentence of 11 years suspended, the inmate violated his probation less than two months later. To grant this inmate parole this early into his sentence would be a gross disservice of justice to the people of California. This inmate has repeatedly demonstrated that his release from custody only puts the public at a greater risk of violence. As outlined in the inmate's criminal history, he has been arrested 44 times, and sentenced to jail or prison on most of those arrests. The inmate has yet to make it more than a few months without reoffending, after being released. The inmate's crimes range from robbery, theft, possession of narcotics, under the influence of narcotics, and criminal threats. He is a danger to our community.

This pattern of crime makes clear that previous grants of probation and parole failed to curb the inmate's appetite for criminal activity. There is no evidence to suggest the

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inmate can, or will, curb his criminal ways if released into the community. In fact, the inmate has demonstrated the opposite. The inmate has continued to commit offenses that have become more violent in nature.

CONCLUSION

The inmate poses an unreasonable risk of violence to the community if granted early parole. I respectfully request the Board deny early parole for the inmate.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gregory D. Totten", with a large, stylized flourish extending to the right.

GREGORY D. TOTTEN
District Attorney

GDT:nl

E-mail: BPH.CorrespondenceUnit@cdcr.ca.gov