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September 24, 2018

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

**Re: Inmate James Frederick Herring; CDCR AZ5380  
Ventura County Superior Court Cases 2015030823, 2015022121, 2013027712  
Opposition Letter Due to Board of Parole Hearings September 26, 2018**

Dear Board Members:

This letter is written to recommend denial of early parole for inmate James Herring. In November 2015, the inmate was sentenced to 10 years 8 months in prison on the above cases. Releasing the inmate now means he would only serve approximately 32 percent of the actual sentence imposed. This recommendation to deny early release is based upon:

- 1) The inmate's commitment offenses.
- 2) The inmate's significant criminal history.
- 3) The unreasonable risk of violence to the community if the inmate is released early.

## **CIRCUMSTANCES OF COMMITMENT OFFENSE**

### Case 2013027712

On September 4, 2013, the inmate was arrested and charged with possessing 44 grams of methamphetamine for sale and possession of a police baton. He was also charged with having three prior convictions for possession of drugs for sale.

### Case 2015022121

On July 10, 2015, while out on bail for the above offense, the California Highway Patrol observed the inmate make an unsafe lane change. The inmate refused to yield, and a ten-

mile pursuit ensued. The inmate reached speeds of 90 miles per hour and a spike strip was unsuccessfully deployed. The inmate was also driving under the influence of drugs while on a suspended license due to a prior DUI conviction. The inmate waived *Miranda* and told officers that he committed the reckless evading in order to receive an eligible prison charge since he did not want to sit in county jail. The inmate was not initially charged but released from custody. Charges were later filed in November 2015 after he committed the below offense.

Case 2015030823

On September 26, 2015, while the inmate was out on bail for the 2013 offense, the California Highway Patrol observed the inmate weaving within lanes while driving. The inmate again refused to yield, reaching speeds of 130 miles per hour. He drove recklessly across all traffic lanes, cutting other vehicles off, and running red lights. The inmate was in possession of 136 grams of methamphetamine and 14 grams of heroin, both for sale. The inmate told the probation officer who prepared his sentencing report that he recklessly evaded law enforcement again to ensure a prison sentence, not a county jail commitment.

**CRIMINAL HISTORY**

The inmate's lengthy, multi-jurisdictional criminal history is best summarized in the following chart:

Arrest Date	State	Charge	Convicted	Comments
10-08-1987	NY	Possession of Marijuana	Y	
06-07-1988	NY	DUI	Y	
07-06-1988	NY	DUI	Y	
08-19-1988	NY	Criminal Contempt	N	Dismissed
04-29-1990	NY	Resisting Arrest + Disorderly Conduct	Y	
07-25-1992	NY	DUI	Y	3 <sup>rd</sup> DUI in 3 years
09-08-1993	NY	Resisting Arrest + Harassment	Y	
07-01-1994	FL	Possession of Cocaine	Y	Fled the state and has an active arrest warrant
05-10-1996	NY	Menacing with a Weapon	Unknown	
08-10-1996	NY	Resisting Arrest	Y	

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05-25-1997	NY	DUI	Y	1 <sup>st</sup> Felony DUI
08-13-1997	NY	Burglary 3 <sup>rd</sup> degree + Contempt	Y	Prison
05-16-1998	NY	DUI + Reckless Driving + Resisting Arrest	Y	2 <sup>nd</sup> Felony DUI
11-29-2005	CA	Possession of drugs + DUI	Y	Prison
12-13-2005	CA	Under the Influence	N	Dismissed – Global Plea
12-21-2005	CA	Under the Influence	Y	The inmate was driving
03-16-2006	CA	Possession of Drugs + Under the Influence	Y	Prison
04-13-2006	CA	Under the Influence	N	Dismissed– Global Plea
06-18-2006	CA	Threatening or Resisting an Executive Officer	Y	Felony
07-12-2006	CA	Possession of Drugs + Out on Bail	Y	Prison The inmate was driving
07-28-2006	CA	Possession of Drugs + DUI	N	Dismissed– Global Plea
10-14-2006	CA	Possession of Drugs + Under the Influence	N	Dismissed– Global Plea
10-19-2006	CA	Possession of Drugs for Sale	Y	Prison
10-24-2006	CA	Possession of Drugs	N	Dismissed– Global Plea
11-02-2006	CA	Under the Influence	N	Dismissed – Global Plea The inmate was driving
11-11-2006	CA	Petty Theft + Under the Influence	Y	Dismissed – Global Plea
11-16-2006	CA	Possession of Drugs + Child Endangerment	N	No charges filed
12-13-2006	CA	Under the Influence	N	The inmate was driving
12-16-2006	CA	Under the Influence	N	Dismissed – Global Plea
08-15-2008	CA	Possession of Drugs for Sale	Y	Prison
07-01-2010	CA	Possession of Drugs for Sale	Y	Prison
08-08-2010	CA	Possession of Drugs for Sale	Y	Prison

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## **DISCUSSION**

Granting early parole to the inmate poses a significant safety risk to the community. The inmate's documented criminal history began in 1987. In 31 years, he accrued an astonishing 32 arrests, despite spending a large portion of this time in custody. Multiple grants of probation, parole, as well as three prior prison commitments in California, and one in New York, has not stopped his criminality. He has six DUI convictions starting in 1988, two of which are felonies. His record consists primarily of DUIs, weapons violations, threatening people, evading or resisting arrest, and serious drug charges. His crimes are inherently violent and put our community at risk of harm.

The inmate's current commitment is based in part on two reckless driving and evading cases that placed the public at unnecessary risk of harm. He intentionally committed these offenses so that he could selfishly serve his time in state prison instead of county jail. In short, the inmate's conduct of intentionally committing two felonies so he could be sent to prison is exactly why early release should be denied. Releasing him early only helps him accomplish exactly why he wanted to be sent to prison, not county jail. In short, the inmate is a career criminal who does not deserve to be released early.

## **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,



MICHAEL D. SCHWARTZ  
Chief Assistant District Attorney

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