

No. B320098

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT, DIVISION ONE

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IN RE LESLIE VAN HOUTEN,  
ON HABEAS CORPUS.

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Los Angeles County Superior Court, Case No. BH013656  
Hon. Ronald S. Coen, Judge

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**RETURN TO ORDER TO SHOW CAUSE;  
MEMORANDUM OF POINTS AND AUTHORITIES**

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## TABLE OF CONTENTS

	<b>Page</b>
Return to Order to Show Cause .....	7
Memorandum of Points and Authorities .....	18
Factual Background.....	18
Argument.....	20
I. Due Process Does Not Require the Governor Meet with Parole-Eligible Individuals Before Rendering a Parole Decision Pursuant to Penal Code 3041.2 .....	20
II. Governor Newsom’s November 2020 Reversal Decision Satisfies Due Process As the Record Contains More than Some Evidence in Support.....	22
III. Van Houten’s Discovery Demand Under Brady v. Maryland Is Successive and Meritless .....	32
IV. Governor Newsom’s Parole Reversal Does Not Implicate Equal Protection .....	33
Conclusion .....	35

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Brady v. Maryland</i> (1963) 373 U.S. 83.....	32
<i>Greenholtz v. Inmates of Neb.</i> (1979) 442 U.S. 1.....	13
<i>In re Burdan</i> (2008) 169 Cal.App.4th 18.....	27
<i>In re Busch</i> (2016) 246 Cal.App.4th 953.....	24
<i>In re Clark</i> (1993) 5 Cal.4th 750.....	13, 15, 32
<i>In re Dannenberg</i> (2005) 34 Cal.4th 1061.....	16, 22, 26
<i>In re Lawrence</i> (2008) 44 Cal.4th 1181.....	<i>passim</i>
<i>In re Lira</i> (2014) 58 Cal.4th 573.....	17
<i>In re McClendon</i> (2003) 113 Cal.App.4th 315.....	27
<i>In re Palmer</i> (2021) 10 Cal.5th 959.....	15
<i>In re Prather</i> (2010) 50 Cal.4th 238.....	16, 22, 23, 26
<i>In re Ramirez</i> (2001) 94 Cal.App.4th 549.....	28
<i>In re Reed</i> (2009) 171 Cal.App.4th 1071.....	23

Document received by the CA 2nd District Court of Appeal.

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
<i>In re Rosenkrantz</i> (2002) 29 Cal.4th 616.....	<i>passim</i>
<i>In re Rozzo</i> (2009) 172 Cal.App.4th 40 .....	17, 27
<i>In re Seabock</i> (1983) 140 Cal.App.3d 29 .....	28
<i>In re Shaputis</i> (2008) 44 Cal.4th 1241 ( <i>Shaputis I</i> ).....	<i>passim</i>
<i>In re Shaputis</i> (2011) 53 Cal.4th 192 ( <i>Shaputis II</i> ) .....	<i>passim</i>
<i>In re Van Houten</i> (2004) 116 Cal.App.4th 339.....	<i>passim</i>
<i>Manduley v. Super. Ct.</i> (2002) 27 Cal.4th 537.....	33
<i>People v. Anderson</i> (1972) 6 Cal.3d 628 .....	7
<i>People v. Manson et al.</i> (1976) 61 Cal.App.3d 102 .....	<i>passim</i>
<i>People v. Van Houten</i> (1980) 113 Cal.App.3d 280 .....	7, 8, 9, 18
<i>People v. Wilkenson</i> (2004) 33 Cal.4th 821.....	33
<i>Swarthout v. Cooke</i> (2011) 562 U.S. 216.....	13, 21

**TABLE OF AUTHORITIES**  
**(continued)**

**Page**

**STATUTES**

California Code of Regulations, Title 15

§§ 2245 et seq. ....	21
§ 2281.....	23
§ 2281, subd. (c)(1) .....	23
§ 2281, subd. (c)(1)(A) .....	19
§ 2281, subd. (c)(1)(B) .....	19, 20
§ 2281, subd. (c)(1)(C) .....	20
§ 2281, subd. (c)(1)(D) .....	19
§ 2281, subd. (c)(1)(E) .....	19

Evidence Code, § 664 .....	26
----------------------------	----

Penal Code

§ 1475.....	32
§ 3040.....	22
§ 3041.....	21
§ 3041, subd. (b) .....	34
§ 3041, subd. (b)(1).....	23
§ 3041.2.....	<i>passim</i>
§ 3041.5.....	21
§ 3041.5(b)(4).....	10
§ 3041.5, subd. (c).....	10, 13
§ 4801.....	25
§ 4801, subds. (b)(1) .....	25

**CONSTITUTIONAL PROVISIONS**

California Constitution

Article V, § 8.....	35
Article V, § 8, subd. (b) .....	21
Article VI, § 10 .....	13

United States Constitution

Fourteenth Amendment .....	33
----------------------------	----

Document received by the CA 2nd District Court of Appeal.

**TABLE OF AUTHORITIES  
(continued)**

**Page**

**OTHER AUTHORITIES**

Ballotpedia, [https://ballotpedia.org/  
California\\_Proposition\\_89,\\_Governor%27s\\_Parole  
\\_Review\\_Amendment\\_\(1988\), as of Jan. 17, 2023.\)](https://ballotpedia.org/California_Proposition_89,_Governor%27s_Parole_Review_Amendment_(1988),_as_of_Jan._17,_2023.)..... 24

Document received by the CA 2nd District Court of Appeal.

## RETURN TO ORDER TO SHOW CAUSE

Respondent submits this return to the Court's order to show cause regarding Leslie Van Houten's petition for writ of habeas corpus. Van Houten is challenging Governor Newsom's November 27, 2020 decision to reverse the Board of Parole Hearings' July 23, 2020 parole determination. Respondent admits, denies, and alleges as follows:

1. Respondent admits that in 1971 a jury convicted Van Houten of two counts of first-degree murder and one count of conspiracy to commit murder for her part in the brutal slaying of Rosemary and Leno La Bianca in their home on August 10, 1969. (*People v. Van Houten* (1980) 113 Cal.App.3d 280, 283.) The jury imposed the death penalty on Van Houten and her codefendants, Patricia Krenwinkle, Susan Atkins, and Charles Manson. (*Id.*)<sup>1</sup>

2. Respondent admits that Van Houten, Krenwinkle, Atkins, and Manson appealed their convictions directly to the California Supreme Court. (*People v. Manson et al., supra*, 61 Cal.App.3d 102.) During the pendency of the appeal, the California Supreme Court invalidated California's death penalty. (*People v. Anderson* (1972) 6 Cal.3d 628.)

3. Respondent admits that before remanding the matter back to the Court of Appeal to address the death penalty issue for all of the defendants, the Court found reversible error as to Van

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<sup>1</sup> Collectively, the codefendants, along with Charles "Tex" Watson, Susan Atkins, and Linda Kasabian, are referred to as the Manson Family. (*People v. Manson et al.* (1976) 61 Cal.App.3d 102, 127.)

Houten's convictions. (*People v. Manson et al., supra*, 61 Cal.App.3d at pp. 197-203.) Van Houten's attorney of record throughout the lengthy trial disappeared after the close of the defendants' case, but before closing argument. (*Id.* at p. 197.) The court appointed new counsel for Van Houten, and she moved for a mistrial, which the trial court denied. (*Id.* at p. 198.) Newly appointed counsel presented Van Houten's closing argument based on his reading the approximately 18,000-page transcript of the case. (*Id.* at pp. 198, 200.) "Balancing the harm to Van Houten caused by the absence of her lawyer at a critical stage of trial against the burden of respondent in retrying the case," the California Supreme Court held "the fair administration of justice demands reversal." (*Id.* at p. 203.) The Court in no way suggested Van Houten was any less culpable for her role in the crime than her codefendants were for their roles, only that she was entitled to have counsel at every stage of her trial.

4. At her initial retrial, the jury was unable to reach a verdict. (*People v. Van Houten, supra*, 113 Cal.App.3d at 283.) The People presented Van Houten's crimes to a third jury, which found her guilty of two counts of first degree murder and one count of conspiracy to commit first degree murder. (*Id.* at p. 284.) Van Houten received three concurrent life terms and credit for having served eight years and twenty days in custody. (*Ibid.*) Van Houten has been in the lawful custody of the California Department of Corrections and Rehabilitation since August 17, 1978. (Exh. 1, Chronological History.)



5. Respondent denies the suggestion that Van Houten received a reduced or lenient sentence based on mitigating factors. (Petn., p. 20, para. 7.) Van Houten includes five pages of sentencing transcript from her third trial. (Petn., Exh. 4.) She asserts “the trial court found mitigating factors” including her “admission that she participated in the La Bianca homicides, and the prosecution’s concession that she was not involved in the Tate killings,” along with her “defense of diminished capacity” and thus ordered the sentences to be served concurrently. (Petn., p. 20, para. 7.) The transcript pages provided and cited say nothing of the sort. (Petn., Exh. 4.)<sup>2</sup> The trial court did say, “[T]his case is a special one. It will burn in the public consciousness for a long period of time, not merely in the memories of the families that have been decimated by them, or in the memories of the people still alive and have been hurt, either closely or incidentally, by the destruction of all of the families that have been destroyed in this case. . .” (Petn., Exh. 4 at pp. 153-154.)

6. Respondent denies the implication that the sentencing court decided against granting Van Houten probation “on the sole ground that no one convicted of first degree murder in California had ever been granted probation.” (Petn., p. 20, para. 8.) To the contrary, before summarily denying probation, the sentencing

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<sup>2</sup> This Court’s 1980 appellate decision affirming Van Houten’s conviction mentions Van Houten’s admission, diminished capacity defense, and drug use, but does not attribute that language to the trial court and does not address those things mitigating Van Houten’s sentence. (*People v. Van Houten, supra*, 113 Cal.App.3d at p. 284.)

judge said, “I don’t know whether anybody convicted of first degree murder in the state of California has ever been granted probation, and I could care less.” (Petn., Exh. 4, p. 154.) Van Houten offers an alternative and unsupported interpretation of the judge’s plain meaning.

7. Respondent admits Van Houten has been eligible for parole consideration since the day that she began serving the indeterminate life terms imposed upon her. (Exh. 1, p. 1, MEPD.)

8. Respondent admits the Board of Parole Hearings (Board) previously found Van Houten unsuitable for parole a number of times. (Exh. 1.)<sup>3</sup> As every parole suitability determination is a conducted de novo, prior decisions by the Board or Governor “shall not be deemed to be binding upon subsequent hearings.” (Pen. Code, § 3041.5, subd. (c).)

9. Respondent admits the Board denied Van Houten’s parole for five years in June 2013. (Exh. 1, p. 4.) The Board advanced her next hearing by two years pursuant to Penal Code section 3041.5(b)(4). Thus, instead of a subsequent hearing in 2018, the Board conducted her parole hearing in April 2016 and found her suitable. (Exh. 1, p. 4.) Governor Brown reversed the decision, which set Van Houten’s subsequent parole consideration hearing for 2017. Respondent admits the Los Angeles County Superior Court (BH010813), the Court of Appeal (B278167) and

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<sup>3</sup> A list of the Board’s many decisions regarding Van Houten’s parole suitability is on the CDCR’s public website. <https://inmatelocator.cdcr.ca.gov/Details.aspx?ID=W13378>.

California Supreme Court (S238110) upheld the gubernatorial reversal.

10. Respondent admits the Board found Van Houten suitable for parole in September 2017 and Governor Brown reversed that decision in January 2018. Van Houten again filed petitions for writ of habeas corpus in the Los Angeles County Superior Court (BH011585), the Court of Appeal (B291024), and the California Supreme Court (S258552). At every level, the courts upheld Governor Brown’s decision.

11. Respondent admits Van Houten appeared before the Board in January 2019 and it weighed the evidence in favor of parole suitability. (Exh. 1, p. 4.) Governor Newsom conducted his first review of Van Houten’s suitability on June 3, 2019, and reversed the panel’s recommendation. (Petn., pp. 42-45.) Van Houten challenged this reversal in the Los Angeles County Superior Court (BH012512), the Court of Appeal (B304258 [response limited to address only whether disclosure of recorded statements by Charles “Tex” Watson was required])<sup>4</sup>, and the California Supreme Court (S263183). All three courts upheld Governor Newsom’s parole suitability determination and denied Van Houten’s access to the Tex Watson Tapes.

12. Respondent admits a Board panel subsequently found Van Houten suitable for parole in July 2020—a decision that was reversed by Governor Newsom on November 27, 2020, based on

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<sup>4</sup> Respondent will hereinafter refer to these recorded statements as the “Tex Watson Tapes.”

ongoing concerns about the risk to public safety that Van Houten's release would pose. (Exh. 2, Newsom's 2020 Reversal.) Van Houten challenged the Governor's 2020 reversal in the Los Angeles County Superior Court (BH013656). Along with her petition, Van Houten filed a discovery motion for disclosure of the records and information about the Board's correspondence about the case with the Governor's Office. The superior court denied Van Houten's discovery motion on August 16, 2021 and then denied Van Houten's petition December 2, 2021.

13. Respondent admits that while the superior court was considering Van Houten's habeas challenge to the Governor's 2020 reversal, she filed a petition for writ of mandate in this Court challenging the August 16, 2021 discovery order denying her access to records and information about correspondence between the Board and the Governor's Office (B314316). On August 27, 2021, counsel for the Governor filed an answer to the petition for writ of mandate. Van Houten responded with a motion to disqualify the Office of the Attorney General as counsel for the Governor alleging a conflict of interest between the Board and the Governor's Office because both are represented by the Attorney General in parole suitability litigation. This Court denied both the motion to disqualify the Attorney General and the petition for writ of mandate relating to the discovery motion. The California Supreme Court subsequently denied Van Houten's petition for review as to both issues (S272430).

14. Respondent admits the superior court affirmed Governor Newsom's November 2020 decision reversing Van

Houten's July 2020 parole grant in case number BH013656. (Petn., pp. 47-56.) Nevertheless, because this is an original petition for writ of habeas corpus the superior court's decision is not at issue here. (Petn., pp. 47-56.) (Cal. Const., Art. 6, § 10; Pen. Code, § 3041.5, subd. (c); *In re Clark* (1993) 5 Cal.4th 750, 767, fn. 7.)

15. Respondent admits Van Houten's prior litigation in this Court about Governor Newsom's November 2020 reversal involved ancillary issues, not the substance of the decision. This is Van Houten's first petition in this Court to challenge the substance and sufficiency of the evidence supporting the Governor's 2020 reversal decision.

16. Respondent denies the unsupported characterizations, inferences, and legal conclusions weaved into the factual assertions in Van Houten's petition for writ of habeas corpus. (Petn., pp. 21-56.)

17. Respondent alleges the Governor's November 2020 reversal complies with her state and federal rights to due process. (Petn., p. 59-71.) In the parole context, federal due process requires notice of a hearing and an opportunity to be heard before the Board. (*Greenholtz v. Inmates of Neb.* (1979) 442 U.S. 1, 16.) Nothing more. (*Swarthout v. Cooke* (2011) 562 U.S. 216, 221.) Van Houten's state right to due process requires a parole decision that is neither arbitrary nor capricious as demonstrated by the presence of some evidence in the record to support the decision. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 627, 657, 664; *In re*

*Lawrence* (2008) 44 Cal.4th 1181, 1205.) Under these legal standards, the Governor's decision is constitutionally valid.

18. Respondent alleges the Governor assessed the overall circumstances surrounding Van Houten's suitability under all appropriate legal standards. (Petn., pp. 71-75.)

19. Respondent alleges the factors the Governor considered when assessing Van Houten's risk were appropriate. (Petn., pp. 76-81.) Respondent alleges that, as required by due process, the Governor tied the circumstances of Van Houten's actions in the La Bianca murders and after to her current insight level, and her superficial understanding of how she came to be susceptible to Manson's influence. (Exh. 2.)

20. Respondent alleges the Governor's assessment of the evidence before him is entitled to deference, as the record demonstrates that Van Houten has failed to demonstrate that she has developed sufficient insight into her involvement with—and susceptibility to—Manson, participation in the La Bianca murders, and devotion to Manson even after the murders. (Petn., pp. 82-101.)

21. Respondent alleges the Governor gave great weight to the fact that Van Houten was 19 and under Manson's influence at the time of the La Bianca murders as well as other hallmark features of youth that contributed to her involvement with the Manson Family. (Petn., pp. 101-113.) Nevertheless, he found those factors were outweighed by other concerns. (Exh. 2.)

22. Respondent alleges the record contains at least some evidence to support the Governor's conclusion that Van Houten's

release on parole would pose an unreasonable risk to public safety. (Petn., pp. 114-116.) For the basis of his decision, the Governor cited Van Houten's willing participation in the La Bianca murders and insufficient insight and understanding into the causative factors of her crimes as demonstrated by inconsistencies between her Board testimony and discussions with the psychological evaluator. (Exh. 2; Exh. 3, Comprehensive Risk Assessment - 2018.)

23. Respondent denies Van Houten's continued incarceration on her life-maximum term violates the prohibition against cruel and unusual punishments or is excessive. (Petn., pp. 116-121.)<sup>5</sup>

24. Respondent alleges Van Houten's repeated litigation regarding the Tex Watson Tapes ignores this Court's decision in case number B304258. (Petn., pp. 122-126.) "Absent a change in the applicable law or the facts, the court will not consider repeated applications for habeas corpus presenting claims previously rejected." (*In re Clark, supra*, 5 Cal.4th at 767.) While this case involves a subsequent gubernatorial parole reversal—the issue of whether Van Houten is entitled to the Tex Watson Tapes under any legal theory was already decided by this Court when it held, "The request for transmission of sealed transcripts is denied."

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<sup>5</sup> The Los Angeles County Office of the District Attorney will file a separate return to address Van Houten's claim under *In re Palmer* (2021) 10 Cal.5th 959.

25. Respondent denies the Governor's authority to review and render final parole decisions, as granted to the Governor's Office by California voters, violates equal protection or creates a different standard for people who commit infamous murders. (Petn., pp. 127-134.) The standard for parole review that governs every case considered by the Governor under the California Constitution and Penal Code section 3041.2 is whether there is some evidence in the record that supports the conclusion that an individual's release on parole would present an unreasonable risk to public safety. (*In re Rosenkrantz, supra*, 29 Cal.4th at p. 654; *In re Dannenberg* (2005) 34 Cal.4th 1061, 1082; *In re Lawrence, supra*, 44 Cal.4th at p. 1202; *In re Shaputis* (2008) 44 Cal.4th 1241, 1254 (*Shaputis I*.)

26. Respondent alleges that the Governor is entitled to a de novo review of all the evidence to determine Van Houten's suitability for parole. (*In re Prather* (2010) 50 Cal.4th 238, 255; *In re Shaputis* (2011) 53 Cal.4th 192, 215 (*Shaputis II*.)

27. Respondent alleges that the Governor has broad discretion to determine an inmate's suitability for release on parole. (*Shaputis II, supra*, 53 Cal.4th at p. 215, *In Lawrence, supra*, 44 Cal.4th at p. 1232; *In re Rosenkrantz, supra*, 29 Cal.4th at p. 627; *In re Dannenberg, supra*, 34 Cal.4th at pp. 1080, 1082, 1088.) The Governor duly considered all relevant factors, including the circumstances of Van Houten's life crime, and some evidence supports his decision that Van Houten poses an unreasonable risk of danger to society (Exh. 2); therefore, this Court must defer to the Governor's balancing of the factors.



(*Shaputis II*, at p. 218; *In re Lawrence*, at pp. 1232-1233; *Shaputis I, supra*, 44 Cal.4th at pp. 1260-1261.)

28. Respondent alleges that the crime alone provides some evidence that Van Houten remains an unreasonable risk to public safety. (*In re Rozzo* (2009) 172 Cal.App.4th 40, 58-59.) Regardless, respondent alleges that some evidence, including the facts of the commitment offense, Van Houten's current lack of insight into the causative factors of her life crime, and the inconsistencies in her explanations support the Governor's reversal decision. (Exh. 2; Exh. 3.)

29. Respondent asserts that, if the Court finds the Governor's decision violates due process because there is no evidence to support the decision, the appropriate remedy is an order that "vacates the Governor's reversal, reinstates the Board's grant of parole, and directs the Board to conduct its usual proceedings for a release on parole." (*In re Lira* (2014) 58 Cal.4th 573, 582.) Respondent denies any other remedy would be appropriate.

30. Except as expressly admitted herein, respondent denies each allegation of the petition. Respondent specifically denies that the Governor's reversal decision was in any way improper or violated Van Houten's rights. Respondent also denies that Van Houten is entitled to the relief requested or to any relief whatsoever.

31. This return is based upon the allegations made in the pleading portion of the return, the supporting memorandum of points and authorities, and the attached exhibits, the published

opinions in *People v. Manson et al.* (1976) 61 Cal.App.3d 102, *People v. Van Houten* (1980) 113 Cal.App.3d 280, all of which are incorporated as though fully set forth herein.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

This petition challenges Governor Newsom’s November 27, 2020 decision to reverse the Boards’ July 23, 2020 determination that Van Houten is suitable for release on parole. Because Governor Newsom’s decision is within his authority under the California Constitution and the Penal Code, and the record evidence supports his decision, there has been no violation of Van Houten’s rights and the petition should be denied.

### **FACTUAL BACKGROUND**

In the summer of 1968, 19-year-old Van Houten met Charles Manson and began living with his cult, the Manson Family, who were working to incite Helter Skelter – a civilization ending race war – by killing high-profile white people in order to provoke retaliatory violence against African-Americans. (*In re Van Houten* (2004) 116 Cal.App.4th 339, 344; *People v. Manson et al.*, *supra*, 61 Cal.App.3d at pp. 127-130.) Van Houten was “completely committed to [Manson] and his cause.” (Ex. 3 at p. 12.) To that end, she believed she “really needed to go... had to kill them [white people] for the beginning of the revolution.” (Exh. 3, p. 12.)

On August 9, 1969, several Family members gruesomely murdered a group of friends at the home of pregnant actress, Sharon Tate. (*In re Van Houten*, *supra*, 116 Cal.App.4th at p. 345.) Van Houten was not directly involved in these murders,

but after hearing about them, complained she felt “left out.” (*Ibid.*) At some point, when Manson asked Van Houten “if she was crazy enough to believe in him and what he was doing,” she responded, “Yes.” (*Ibid.*; Cal. Code Regs., tit. 15, § 2281, subd. (c)(1)(E) [an inexplicable or trivial motive for a crime indicates a prisoner’s parole unsuitability].) On August 10, 1969, Van Houten, Manson, and several other crime partners drove around looking for victims, eventually arriving at the La Bianca home. (*In re Van Houten*, at p. 345; Cal. Code Regs., tit. 15, § 2281, subd. (c)(1)(B) [a dispassionate and calculated murder indicates a prisoner’s parole unsuitability].) Manson and Watson entered, then Manson told Van Houten and Krenwinkel, to go inside and “do what Watson told them to.” (*In re Van Houten*, at p. 345.)

Upon entering the house, Van Houten found the La Biancas tied up and she was told to take Rosemary La Bianca into her bedroom and kill her. (*In re Van Houten*, *supra*, 116 Cal.App.4th at p. 345; Cal. Code Regs., tit. 15, § 2281, subd. (c)(1)(A) [a crime involving multiple victims indicates a prisoner’s unsuitability for parole].) Her crime partner fetched knives as Van Houten put a pillowcase over Ms. La Bianca’s head and wrapped a lamp cord around her neck. (*In re Van Houten*, at p. 345; Cal. Code Regs., tit. 15, § 2281, subd. (c)(1)(D) [a murder displaying callous disregard for human suffering indicates a prisoner’s parole unsuitability].) When Ms. La Bianca heard her husband being stabbed in the next room, she grabbed the lamp attached to the cord around her neck and swung it at Van Houten. Van Houten knocked the lamp away, wrestled Ms. La Bianca onto a bed, and

held her steady as her crime partner stabbed her with such force that the knife bent on Ms. La Bianca's collarbone. (*In re Van Houten*, at p. 346.) Watson rushed and stabbed Ms. La Bianca with a bayonet and then handed Van Houten a knife, telling her to "do something." (*Ibid.*) Van Houten, unsure if Ms. La Bianca was dead, proceeded to stab her at least 16 times. (*In re Van Houten*, at pp. 346, 350-351 [even if Van Houten believed Ms. La Bianca to be dead, stabbing her would constitute gratuitous mutilation]; Cal. Code Regs., tit. 15, § 2281, subd. (c)(1)(C) [mutilating or abusing a victim during a crime indicates a prisoner's parole unsuitability].) Van Houten next wiped fingerprints from the house, changed into Ms. La Bianca's clothes, and drank chocolate milk from the victims' refrigerator. Upon returning to the ranch, she bragged to others that the more times she stabbed Ms. La Bianca, "the more fun it was." (*In re Van Houten*, at p. 346; Cal. Code Regs., tit. 15, § 2281, subd. (c)(1)(B).)

## ARGUMENT

### **I. DUE PROCESS DOES NOT REQUIRE THE GOVERNOR MEET WITH PAROLE-ELIGIBLE INDIVIDUALS BEFORE RENDERING A PAROLE DECISION PURSUANT TO PENAL CODE 3041.2**

Van Houten asks this Court to find the Governor violated due process because "Van Houten was not allowed to appear before the Governor and personally demonstrate her suitability." (Petn., p. 63.) There was no violation of her rights because she has no right to meet with the Governor to demonstrate her suitability. She did, however, meet personally with an impartial panel of the Board at a properly noticed hearing, had the

assistance of counsel, had the opportunity to present favorable testimony and documentary evidence in a recorded proceeding, and received a written statement of the Board's decision. (Pen. Code, §§ 3041, 3041.5; Cal. Code Regs., tit. 15, §§ 2245 et seq.) Pursuant to his constitutional authority, Governor Newsom reviewed materials related to Van Houten's case, including prior parole hearing transcripts, prison and court records, current and past psychological evaluations, and the materials she and others submitted to the Board. Governor Newsom then reversed the Board's parole finding in a written statement setting forth the bases for the decision. (Cal. Const., art. V, § 8, subd. (b); Pen. Code, § 3041.2.) All rights guaranteed by the state Constitution and statutes were met.

Likewise, all rights guaranteed by the federal Constitution were met—Van Houten was afforded “an opportunity to be heard” and “a statement of the reasons why parole was denied.” (*Swarthout, supra*, 562 U.S. at p. 220, citing *Greenholtz, supra*, 442 U.S. at p. 7.) Nothing more is required. (*Ibid.*) There is no established due process principle—state or federal—that requires the Governor to meet with individuals granted parole by the Board in the course of exercising his constitutional authority to review parole decisions. Because due process does not require such a meeting, that the Governor did not personally engage directly with Van Houten is not a due process violation. There is no legal basis for this claim.

## II. GOVERNOR NEWSOM'S NOVEMBER 2020 REVERSAL DECISION SATISFIES DUE PROCESS AS THE RECORD CONTAINS MORE THAN SOME EVIDENCE IN SUPPORT

Despite citation to the California Supreme Court's decisions regarding the appropriate legal standard for review in the parole suitability context, Van Houten suggests the Court should ignore the Governor's findings, independently review her parole suitability, reweigh the evidence, and find her suitable for parole. Over dozens of pages Van Houten invites the Court to reweigh the facts reviewed by the Governor, override his decision, and pronounce her suitable for parole. (Petn., pp. 21-42, 72.) The separation of powers doctrine, however, prohibits the Court from doing so. (*In re Rosenkrantz, supra*, 29 Cal.4th at p. 625.) As the California Supreme Court has repeatedly and unequivocally held, the separation of powers requires that judicial review in the parole suitability context is *not* de novo review, but the highly deferential 'some evidence' standard. (*In re Rosenkrantz, supra*, 29 Cal.4th at p. 625; *In re Dannenberg, supra*, 34 Cal.4th at p. 1071; *In re Lawrence, supra*, 44 Cal.4th at pp. 1190-1191; *Shaputis I, supra*, 44 Cal.4th at p. 1246; *In re Prather, supra*, 50 Cal.4th at p. 243; *Shaputis II, supra*, 53 Cal.4th at p. 198.) To hold otherwise would improperly impose the judicial branch's authority on the inherently executive function of determining parole suitability. (Pen. Code, § 3040.)

Given the judiciary's role to ensure due process in the parole context is mindful of the separation of powers and is thus extremely deferential to the executive, a reviewing court "will affirm the Governor's interpretation of the evidence so long as that interpretation is reasonable and reflects due consideration of

all relevant statutory factors.” (*Shaputis I, supra*, at p. 1258.) The relevant statutory factors include the timing and gravity of the offenses [Pen. Code, § 3041, subd. (b)(1)], including the number of victims, presence and degree of mutilation, callousness, calculation and planning, and motive for committing the convicted offenses. (Cal. Code Regs., tit. 15, § 2281, subd. (c)(1).) Additional considerations include any previous record of violence, the individual’s social history, as well as expressions of remorse, understanding, and plans for the future. (Cal Code Regs., tit. 15 § 2281.)

The Governor undertakes an independent and de novo review of parole suitability and “has discretion to be ‘more stringent or cautious’ in determining whether a defendant poses an unreasonable risk to public safety.” (*Shaputis I, supra*, 44 Cal.4th at p. 1258, quoting *In re Rosenkrantz, supra*, at pp. 660, 686; *In re Prather, supra*, 50 Cal.4th at p. 257, fn. 12.) Van Houten suggests that the Governor’s disagreement with the Board is evidence of an application of a stricter standard in her case. She is wrong. It is the Governor’s duty to review *all* parole decisions for those individuals serving an indeterminate life term for murder and to determine whether, given the Governor’s independent assessment, that individual would be able to live in the community without endangering public safety. (Pen. Code, 3041.2; *In re Lawrence, supra*, 44 Cal.4th at p. 1204; *In re Reed*

(2009) 171 Cal.App.4th 1071, 1081-1082; *In re Busch* (2016) 246 Cal.App.4th 953, 968.)<sup>6</sup>

In an attempt to persuade this Court to override the Governor’s decision and find her suitable for parole, Van Houten likens her role in the Manson Family murders to the petitioner in *In re Lawrence*. The comparison fails. Sandra Lawrence is a woman who murdered her lover’s wife “while under the stress of an emotional love triangle.” (*In re Lawrence, supra*, 44 Cal.4th at p. 1225.) Van Houten murdered and mutilated a stranger in a conspiracy to initiate a worldwide race war, after which she and other cult members would emerge “to take control and restore order.” (*People v. Manson, et al., supra*, 61 Cal.App.3d at pp. 129-130.) These two crimes—these two women—are not the same.

In accordance with *Lawrence*, the Governor focused on public safety in rendering his parole decision for Van Houten. He began with a brief discussion of Manson, the Manson Family and Helter Skelter. (Exh. 2; *In re Van Houten, supra*, 116 Cal.App.4th at p. 344, fn. 1.) The Manson Family believed they

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<sup>6</sup> The voters rejected the arguments Van Houten makes here—namely that gubernatorial review politicizes the parole process and “unpopular persons will be denied parole dates because governors will sacrifice the interest of justice for votes.” (Exh. 4, California Voter’s Guide – 1988 General Election.) The people overwhelmingly (55%) voted to have the Governor provide the last word on parole suitability for indeterminately sentenced murderers. (California Proposition 89, Governor’s Parole Review Amendment (1988), Ballotpedia, [https://ballotpedia.org/California\\_Proposition\\_89\\_Governor%27s\\_Parole\\_Review\\_Amendment\\_\(1988\)](https://ballotpedia.org/California_Proposition_89_Governor%27s_Parole_Review_Amendment_(1988)), as of Jan. 17, 2023.)



could hide in the desert during the war, only to reemerge at its conclusion and take control of the world. As described, the Family set to instigate Helter Skelter by murdering “white victims to incite retaliatory violence against Black people.” (Exh. 2, p. 1; *In re Van Houten, supra*, at p. 344, fn. 1.) The Governor summarily described the first night of the Family’s murder spree, which did not directly involve Van Houten. Governor Newsom then detailed the second night of the spree, during which Van Houten and the others robbed, tortured, mutilated, and murdered Leno and Rosemary La Bianca. (*In re Van Houten, supra*, at pp. 344-346.) Van Houten participated directly in Ms. La Bianca’s murder before she wiped away her fingerprints, changed into Ms. La Bianca’s clothes, and drank the La Bianca’s chocolate milk. (Exh. 2, p. 2; *In re Van Houten, supra*, at p. 346.)

Recognizing that Van Houten was 19 years old when she joined the Manson Family on their murder spree, the Governor carefully examined the record for evidence demonstrating her increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished capacity as a youthful offender as required by the Penal Code. (Exh. 2, p. 3.) Penal Code section 4801 requires the parole authority to give great weight “to the diminished culpability of youth as compared to adults, the hallmark feature of youth, and any subsequent growth and increased maturity in the prisoner.” (Pen. Code, § 4801, subds. (b)(1).) It does not, however, mandate a favorable parole suitability determination for youthful offenders who may have acted in accordance with those hallmark features of youth.

The Governor acknowledged, “it seems very likely that Ms. Van Houten’s involvement in the life offense was significantly impacted by these youth factors.” (Exh. 2, p. 2; Exh. 3, p. 16.) The Governor also recognized Van Houten has participated in and facilitated self-help programming in prison, earned a bachelor’s and a master’s degree, and completed vocational training. (Exh. 2, p. 3; Exh. 3, pp. 6-7, 10.) Nevertheless, the Governor concluded that these considerations did not outweigh his concerns regarding the risk to public safety posed by her release.

Van Houten suggests the Governor failed to give her case individualized consideration or afford sufficient weight to the factors she believes demonstrate she is suitable for parole. She alleges that because the Governor did not list in detail every factor that he considered in his analysis of the youth offender factors, or provide a complete list of her programming efforts that he reviewed, he did not sufficiently consider them. (Petn., pp. 91-100.) This is not the case, and her request that the Court reweigh the evidence and make its own parole suitability determination must be rejected. (*In re Rosenkrantz, supra*, 29 Cal.4th at p. 625; *In re Dannenberg, supra*, 34 Cal.4th at p. 1071; *In re Lawrence, supra*, 44 Cal.4th at pp. 1190-1191; *Shaputis I, supra*, 44 Cal.4th at p. 1246; *In re Prather, supra*, 50 Cal.4th at p. 243; *Shaputis II, supra*, 53 Cal.4th at p. 198.)

There is an evidentiary presumption that an official duty is regularly performed, which Van Houten fails to overcome. (Evid. Code, § 664.) The Governor is duty-bound to review parole

decisions for all individuals convicted of murder and is required to give individualized consideration to each parole case before him. (Pen. Code, § 3041.2.) He is not required to list all of the information he considered to justify his decision. And his decision not to enumerate every factor considered along with the factors described in his written statement does not rebut the presumption that he properly and lawfully performed his duty. (See *In re McClendon* (2003) 113 Cal.App.4th 315, 323 [court could not infer Governor failed to consider all information because he did not discuss each factor]; *In re Rozzo, supra*, 172 Cal.App.4th at pp. 63-64 [same]; *In re Burdan* (2008) 169 Cal.App.4th 18, 30 [presume Governor considered same factors as the Board as an official duty].) Nevertheless, even after considering Van Houten’s rehabilitative efforts and growth in prison, the Governor concluded, “she remains unsuitable for parole at this time.” (Exh. 2, p. 3.)

Van Houten invites the Court to discount the Governor’s conclusions and give greater weight to the positive aspects of her time in custody. (Petn., pp. 36-37, 91-100.) That is precisely what the *Rosenkrantz* court warned would violate the separation of powers by usurping the executive’s parole discretion. (*In re Rosenkrantz, supra*, 29 Cal.4th at p. 667.) And it is what led the California Supreme Court to reverse the Court of Appeal in *Shaputis I*. (*Shaputis I, supra*, 44 Cal.4th at p. 1255 [Court of Appeal “failed to adhere to the deferential standard of review” and “substituted its own parole suitability determination for that of the Governor.”].) Review for some evidence “does not require

examination of the entire record, independent assessment of the credibility of witnesses, or weighing of the evidence.” (*In re Rosenkrantz, supra*, at pp. 664-665.) As such, the “some evidence” standard does not involve “an independent assessment of the merits” of a parole decision. (*Id.*, at p. 665.) The Court should reject Van Houten’s invitation to reweigh the evidence and find her suitable for parole and affirm the Governor’s decision because it is supported by some evidence in the record and thus satisfies due process.

Van Houten claims the Governor’s reliance on the gruesome facts surrounding the La Bianca murders and her place in the Manson Family is unlawful because, no matter her efforts, the facts surrounding the murders will never change. (Petn., pp. 76-78.) But the Governor’s decision was not based solely on Van Houten’s involvement in Manson Family or the La Bianca murders. Governor Newsom took into account the viciousness of the Ms. La Bianca’s murder and Van Houten’s understanding of her involvement in both the Manson Family and the murders. (Exh. 2.) Yet, even if the Governor had based his decision on the murders alone, such a decision is not *per se* unlawful. “The nature of the prisoner’s offense, alone, can constitute a sufficient basis for denying parole.” (*In re Rosenkrantz*, at p. 682, citing *In re Minnis* (1972) 7 Cal.3d 639, 347; *In re Ramirez* (2001) 94 Cal.App.4th 549, 569; *In re Seabock* (1983) 140 Cal.App.3d 29, 36-37.) Moreover, the Governor “properly may weigh heavily the degree of violence used and the amount of viciousness shown by a

defendant.” (*In re Rosenkrantz*, at p. 683, citing *In re Seabock*, *supra*, 140 Cal.App.3d at pp. 36-37.)

The *Lawrence* decision articulated the nuance underlying a decision based solely upon an individual’s crime stating, “it is not the circumstance that the crime is particularly egregious that makes a prisoner unsuitable for parole—it is the implication concerning future dangerousness that derives from the prisoner’s having committed that crime.” (*In re Lawrence*, *supra*, 44 Cal.4th at pp. 1213-1214.) The Governor reviewed Van Houten’s explanation that her parents’ divorce and illegal abortion at 17 “allowed her to be vulnerable to Mr. Manson’s influence” and found it “unsatisfying.” (Exh. 2, p. 3.) He concluded that her explanation was inadequate to demonstrate a sufficient understanding of her “eagerness to submit to a dangerous cult leader or her desire to please Mr. Manson, including engaging in the brutal actions of the life crime.” (Exh. 2, p. 3; Exh. 3, pp. 3-4.)

Governor Newsom cited specific areas of concern from Van Houten’s comprehensive risk assessment conducted in October 2018. (Exh. 2, p. 3.) Van Houten told the evaluating psychologist that, at the time of the murders, she was “desperate to be accepted” and participated in the gruesome double murder to let Manson “know [she] was completely committed to him and his cause.” (Exh. 3, p. 12.) This description of being a willing participant is inconsistent other reports that she “felt obligated to participate.” (Exh. 2, p. 3; Exh. 3, p. 14.) After more than 50 years in custody and countless self-help programs, Van Houten still vacillates on whether she was willing to commit the murders

or felt she had to participate. Then Van Houten characterizes her actions—holding down Ms. La Bianca while her crime partner stabbed her—and says, “none of this was conscious.” (Exh. 3, p. 13.) These contradictions indicate Van Houten has yet to demonstrate insight into whether she was acting willingly and intentionally or in a sort of unconscious state due to obligation and indoctrination. As these states are mutually exclusive, the Governor concluded the inconsistencies indicate “gaps in Ms. Van Houten’s insight or candor, or both, which bear on her current risk for dangerousness.” (Exh. 2, p. 4.)

Additionally, Governor Newsom identified another inconsistency that signaled Van Houten’s lack of insight. The evaluator asked Van Houten how she felt *after* the murders. Van Houten replied, “I felt horrible, aggressive, predatory . . . after that, I began to wipe fingerprints.” (Exh. 2, p. 3; Exh. 3, p. 13.) This statement directly contradicts previous reports indicating Van Houten returned from the murders and told other family members that it was “fun,” which she no longer recalls saying. (Exh. 2, p. 3; Exh. 3, p. 13.) These responses are mutually exclusive: either the murders were “fun” or they were “horrible, aggressive, predatory.” Van Houten counters the Governor’s assessment saying, her “description of the killings as horrible and predatory was from her perspective of a 71-year-old woman looking back after 50 years of therapy.” (Petn., p. 46.) But the statement itself has a temporal indicator—“after that, I began to wipe fingerprints.” (Exh. 3, p. 13.) Even if the statement reflects her perspective today, she attributed those feelings to her 19-

year-old self, who participated in a gruesome, cult-inspired, double homicide, *then* wiped away fingerprints from the crime scene, and *then* drank chocolate milk. This additional inconsistency supports Governor Newsom’s conclusion that there are “gaps in Van Houten’s insight or candor, or both, which bear on her current risk for dangerousness.” (Exh. 2, p. 4.)

Van Houten’s participation in the La Bianca murders remain probative of her current dangerousness because the Governor found she still lacks insight or candor, or both. (Exh. 2, p. 4.) This conclusion accords with the requirements of *Lawrence* because its conclusion regarding current dangerousness is based upon “something in the prisoner’s pre- or post incarceration history, or his or her current demeanor and mental state,” indicate the commitment offense remains “probative of the statutory determination of a continuing threat to public safety.” (*In re Lawrence, supra*, 44 Cal.4th at p. 1214.) “Only when the evidence reflecting the inmate’s present risk to public safety leads to but one conclusion [that the inmate poses no risk] may a court overturn a contrary decision by the Board of Parole Hearings or Governor.” (*Shaputis II, supra*, 53 Cal.4th at p. 211.) Van Houten does not present such a case. The petition should be denied because the Governor’s decision satisfies due process as it “reflects due consideration of the specified factors as applied to the individual prisoner in accordance with applicable legal standards.” (*Shaputis II*, at p. 210.) The Court must uphold the Governor’s decision because some evidence supports his

conclusion that there is a risk to public safety associated with her parole.

### **III. VAN HOUTEN'S DISCOVERY DEMAND UNDER *BRADY V. MARYLAND* IS SUCCESSIVE AND MERITLESS**

Van Houten renews her claim under *Brady v. Maryland* (1963) 373 U.S. 83, that she is entitled to discovery of the Tex Watson Tapes. (Petn., pp. 122-126.) This Court already denied Van Houten's request for access to these interview transcripts on July 2, 2020 in case number B304258. On September 9, 2020, the California Supreme Court denied review of this Court's decision. To continue to litigate this already decided issue squanders judicial resources. Van Houten adds nothing new to her claim in her current petition, and the arguments presented here are largely identical to the arguments she presented in B304258.

Penal Code section 1475 restricts the filing of successive habeas petitions on the same facts. The instant petition argues the exact same facts as previously litigated, and under the same legal theory. As stated by the California Supreme Court, "It has long been the rule that absent a change in the applicable law or the facts, the court will not consider repeated application for habeas corpus presenting claims previously rejected." (*In re Clark* (1993) 5 Cal.4th 750, 767.) This is at least the fifth time Van Houten has unsuccessfully claimed she is entitled to the Tex Watson Tapes under *Brady v. Maryland*. (Los Angeles County Superior Court Case Nos. BH010813, BH011585, BH012512, BH013656, Court of Appeal B304258.) Because nothing in the law or the facts related to this issue have changed since this



Court's previous denial, there is nothing to warrant this Court's reconsideration.

#### **IV. GOVERNOR NEWSOM'S PAROLE REVERSAL DOES NOT IMPLICATE EQUAL PROTECTION**

Van Houten suggests the Governor's parole reversal violates equal protection<sup>7</sup> because gubernatorial review of parole decisions creates a similarly situated class of infamous, indeterminately sentenced individuals who are subject to more stringent parole review than other people convicted of murder. (Petn., pp. 127, 132.) She is wrong.

To prove the Governor's parole review process violates equal protection, Van Houten would have to demonstrate two things: First, that the Governor employs a different, stricter standard when reviewing parole decisions in "infamous" homicide cases. (See *People v. Wilkenson* (2004) 33 Cal.4th 821, 836.) Second, she must show that this alleged dual-classification of parole-eligible lifers—the "infamous" and the others—is not rationally related to a legitimate governmental purpose. (*Id.*) She fails from the start because the Governor applies the same parole suitability standard in all cases of people with indeterminate life-maximum sentences.

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<sup>7</sup> Respondent's analysis includes state and federal equal protection because the equal protection provisions in the California Constitution are "substantially equivalent of the equal protection clause of the Fourteenth Amendment to the United States Constitution." (*Manduley v. Super. Ct.* (2002) 27 Cal.4th 537, 571.)

The parole statute requires the Governor consider the nature and gravity of Van Houten’s commitment offenses and her risk to public safety. (Pen. Code, §3041, subd. (b); *In re Rosenkrantz, supra*, 429 Cal.4th at p. 654.)<sup>8</sup> This individualized standard is the same in every parole case. (*Ibid.*) The parole authority exercises broad discretion that “involves the deliberate assessment of a wide variety of individualized factors on a case-by-case basis.” (*In re Rosenkrantz, supra*, 429 Cal.4th at p. 654, quoting *In re Powell* (1988) 45 Cal.3d 894, 902.) This standard necessarily means that every parole decision is an individual one. Because parole suitability determinations are specific to individuals, there can be no similarly situated class to begin to satisfy the first element of the equal protection analysis.

All people serving indeterminate life-maximum terms are subject to the same threshold analysis—whether their release on parole would pose a risk to public safety, which requires determination of “whether the inmate will be able to live in society without committing additional antisocial acts.” (*In re Lawrence, supra*, 44 Cal.4th at p. 1206, quoting *In re Rosenkrantz, supra*, 29 Cal.4th at p. 655.) The Governor must conduct his own de novo review, which need not agree with the Board’s assessment. (*Shaputis I, supra*, 44 Cal.4th at p. 1258; *In*

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<sup>8</sup> The state courts upheld Governor Brown’s parole reversals from July 2016 (BH010813, B278167, S238110) and January 2018 (BH011585, B291024, S258552) and Governor Newsom’s reversals from June 2019 (BH012512) and November 2020 (BH013656). There has never been a finding that the Governors were applying a separate standard for Van Houten.

*re Rosenkrantz, supra*, at p. 660, 686.) In fact, the voters expressly gave the Governor the authority to reach a different finding than the Board. (Cal. Const., art. 5, § 8; Pen. Code, § 3041.2; Exh. 4, pp. 4-6.) Van Houten suggests that the Governor’s disagreement with the Board in her case demonstrates an application of an improperly stricter standard for people convicted of notorious murders and amounts to an equal protection violation. It does not.

The Governor’s decision is the result of his independent assessment of Van Houten’s individual public safety risk and his determination that her inconsistent responses to the Board and evaluators, even decades after the Manson Family murders and significant efforts in rehabilitation, demonstrate “gaps in [her] insight or candor, or both.” (Exh. 2, p. 4.) Governor Newsom’s decision is not evidence that he applied a different standard in this case, and it does not violate Van Houten’s constitutional rights.

### CONCLUSION

Van Houten challenges the Governor’s decision by asking this Court to reweigh the evidence and disregard the Governor’s credibility determinations. “When, as in this case, the parole authority declines to give credence to certain evidence, a reviewing court may not interfere unless that determination lacks any rational basis and is merely arbitrary.” (*Shaputis II, supra*, 53 Cal.4th at p. 215.) The Governor’s findings are reasonably supported by some evidence in the record. Moreover, he adequately considered the mitigating factors as required by

statute. Therefore, respondent respectfully requests that the Court deny the petition and discharge the order to show cause.

Respectfully submitted,

ROB BONTA

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*Supervising Deputy Attorney General*

*/s/ Jennifer L. Heinisch*

JENNIFER L. HEINISCH

*Deputy Attorney General*

*Attorneys for Respondent*

January 20, 2023

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**CERTIFICATE OF COMPLIANCE**

I certify that the attached RETURN TO ORDER TO SHOW CAUSE; MEMORANDUM OF POINTS AND AUTHORITIES uses a 13 point Century Schoolbook font and contains 7035 words.

ROB BONTA  
*Attorney General of California*

*/s/ Jennifer L. Heinish*  
JENNIFER L. HEINISCH  
*Deputy Attorney General*  
*Attorneys for Respondent*

January 20, 2023

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# Exhibit 1

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CUMULATIVE CASE SUMMARY  
CHRONOLOGICAL HISTORY

DATE	CHRONOLOGICAL LISTINGS	INITIAL	TIME LOST	TIME RESTORED	RELEASE DATE
8-17-78	RC/CIW				
1-31-79	Lifer Hearing Parole Denied Place on 1/80 Parole Consideration Com			ISL DENIED	
1-17-80	Parole Denied place on 1/81 PC Reducing 2 yrs			ISL DENIED	
8-29-80	Appeal Dismissed Com				
4-22-81	Parole denied placed on 4/82 <sup>3</sup> calendar. Effct date 4-30-81	MM		MePO	8-17-78
11-24-81	OTC return same day	MF			
4-22-82	Parole Denied, P.O. 4-85 P.C. <sup>4</sup> Calendar				
5-15-85	Denial Place on 5/86 Cal. <sup>5</sup>	CR			
3-4-86	File audited	PP		500 12/95	
5-23-86	Continued for notice to Defense Council. Sch. as soon as possible after 30 day notice under 3042 P.C.			4/98	
7-11-86	Parole Denied. Place on 7/87 Sub. Cal. #6	PP			
10-29-86	File audited	PP			
7-30-87	Parole Denied 3 years Place on 7/90 Sub. Cal. #7	Sub			
10-24-89	File audited	PP			
12-21-89	Parole Denied 2 years - place on 12/91 Sub Cal #8	PP			
8-15-91	File Audit 305k.6 P.C.				
12-30-91	Parole Denied 2 years place on 12/93 Sub Cal #9				
8-24-93	File review				
12-29-93	Parole Denied 2 yrs. place on 12/95 Sub Cal #10				
10-20-95	Pre-Board Audit				
4-30-96	Parole Denied 2 yrs. Place on 4/98 Sub Cal. #11				

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NUMBER  
W-13378

NAME  
VAN HOUTEN, Leslie

INSTITUTION  
C.I.W.

PAGE  
1

Date	Chronological Listings	Initials	Dead Time	Release Date
3-9-98	Pre Board Audit	dp	Med	8-17-98
4-21-98	DBis update completed			
6-25-98	Parole Denied One (1) year - #12 schedule for Sub Cal. 5/99	dp	Sub	
2-9-99	3058.6	dp	4/99	
2-9-99	"Public Interest Case" notice to DPED required	dp	5/99	
4-5-99	Pre Board Audit	dp	6/02	
2-7-99	Post Board next Avail Sub Cal.	dp	8/06	
11-4-99	Post Board next Avail Sub Cal. requested notice of Death, Release, or escape from Departmental Custody.	dp		
3-4-00	Pre Board Audit	dp		
10-6-00	Parole Denied 2 years schedule for next Avail Sub Cal.	dp		
5-13-02	Pre Board Audit Reviewed for compliance with PC 296/198673	dp		
5-23-02	OTC/Defendant #SWHSS-5072 STB CO. Returns same day 5/23/02	mt		
6-28-02	Post Board Audit - Parole Denied 2 yrs. - schedule for next Sub Hrg. Cal 6/04	dp		
6-28-02	PC 296 DNA completed	dp		
3-25-04	Pre Board Audit	dp		
8-25-04	Sub Hrg. Parole Denied two (2) yrs. - Place on next set Cal 8/06	dp		
4-12-06	Pre Board Audit	dp		
8-18-06	Pre Board Audit	dp		

Number  
W13378

Name  
Van Houten, Jesse

Page  
1

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Date	Chronological Listings	Initials	Dead Time	Release Date
9-7-06	Parole Denied - one (1) year - law on next sub cal 8/07		Mepal	8-7-28
7-9-07	Pre Board Audit			<del>Sub #7 8-07</del>
10-17-07	Sub Hearing Parole denied 2 years, place on calendar sub #18, 8/09.			<del>Sub #8 8-09</del>
2-20-09	1 year postponement granted as a 1 yr waiver (non-adverse)			Sub #8 8-10
4-21-10	Pre Board Audit			
8-24-10	Parole Denied three years place on 7/13 cal.			

Number W13378

Name Van Houten, Jessie

Page 1

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### Chronological History

CDCR Number W13378	Inmate's Last Name VAN HOUTEN	Inmate's First Name LESLIE	MI	Page 1 of 1
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Date	Chronological Listings	Initials	Dead Time	Date Type	Release Date
03/26/2013	Pre Board Audit	GP		SUB# 18-7-13	
06/05/2013	Parole denied for five years, place on calendar no later than June 2018	AA		SUB# 19-6/2018	
04/22/2016	Per BPH 1001 dated 04/14/2016, Parole Granted. Do not release inmate before Governor's review.	BET		MEPD	08/17/1978
07/26/2016	Governor invoked his authority to Reverse the Board's decision to grant parole. Place on appropriate calendar no later than 18 mos. from Decision dated 4/14/2016.	BET		SUB#20-NLT	10/14/2017
04/20/2017	Per BPH 1003A dated 04/12/17, Request for Private Attorney approved.	BET			
09/13/2017	Per BPH 1001 dated 09/06/17, Parole Granted. Do not release inmate before Governor's review.	BET		MEPD	08/17/1978
01/26/2018	Governor invoked his authority to Reverse the Board's decision to grant parole. Place on appropriate calendar no later than 18 mos. from Decision dated 01/19/2018.	BET			
02/06/2018	Per BPH 1045(c) PTA, BPH does not have jurisdiction. Insufficient time has passed since the previous Review on Merits decision.	BET			
05/08/2018	Per BPH 1045(c) PTA dated 05/04/18, BPH does not have jurisdiction. The next hearing type may not be advanced.	BET			
02/01/2019	PerBPH 1001 dated 01/30/2019, Parole Granted. Do not release inmate before Governor's review.	BET			
06/03/2019	Governor invoked his authority to Reverse the Board's decision to grant parole. Place on appropriate calendar no later than 18 mos. from Decision dated 01/30/2019.	BET			
07/28/2020	Per BPH 1001 dated 7/23/20 Parole Granted. Do not release inmate before Governor's review.	BET			
11/30/2020	Per the Indeterminate Sentence Parole Release Review, dated: 11/27/2020- The Governor reversed the BPH decision to grant parole.	AAC			
11/15/2021	BPH 1001 dated 11/9/2021; Parole Granted-YES	AAS			

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# Exhibit 2

Document received by the CA 2nd District Court of Appeal.

**INDETERMINATE SENTENCE PAROLE RELEASE REVIEW**  
(Penal Code Section 3041.2)

**LESLIE VAN HOUTEN, W-13378**

First Degree Murder

**AFFIRM:** \_\_\_\_\_

**MODIFY:** \_\_\_\_\_

**REVERSE:** \_\_\_\_\_ **X** \_\_\_\_\_

**STATEMENT OF FACTS**

In the summer of 1968, 19-year-old Leslie Van Houten met Charles Manson and began living as a member of Manson's cult, "the Family." Members of the cult subscribed to Mr. Manson's belief that "Helter Skelter," a civilization ending race-war, was imminent. Mr. Manson planned to hide in the desert with the Family until the conclusion of Helter Skelter, when the Family would take control of the world. In the late summer of 1969, Mr. Manson believed that it was the Family's responsibility to initiate Helter Skelter by committing murders of white victims in order to incite retaliatory violence against Black people.

On August 8, 1969, Charles Watson, Susan Atkins, Patricia Krenwinkel, and Linda Kasabian, all members of the Family, drove to the home of Sharon Tate, where they killed her, Steve Parent, Abigail Folger, Wojciech Fryowski, and Jay Sebring. Ms. Tate, who was eight months pregnant, was stabbed 16 times. Mr. Parent was shot five times. Ms. Folger was stabbed 28 times. Mr. Fryowski was stabbed 51 times, shot twice, and suffered 13 scalp lacerations. Mr. Sebring was stabbed seven times and shot once.

Two days later, on August 10, 1969, Mr. Manson, Ms. Van Houten, Mr. Watson, Ms. Krenwinkel, Ms. Kasabian, and another member of the Family, Steve Grogan, drove to the home of Leno and Rosemary La Bianca. Mr. Manson and Mr. Watson went inside the house, tied Mr. and Mrs. La Bianca up, took Mrs. La Bianca's wallet, and returned to the group outside. Mr. Manson instructed Ms. Van Houten and Ms. Krenwinkel to go inside the house and do whatever Mr. Watson instructed them to do. Mr. Manson, Mr. Grogan, and Ms. Kasabian drove away. Ms. Van Houten, Ms. Krenwinkel, and Mr. Watson entered the La Biancas' house. Mr. Watson, armed with a bayonet, ordered the La Biancas to hand over their cash. Mrs. La Bianca gave him a small box of money. Mr. Watson told Ms. Van Houten and Ms. Krenwinkel to take Mrs. La Bianca into the

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bedroom and kill her. Ms. Van Houten and Ms. Krenwinkel took her into a bedroom, and Ms. Krenwinkel retrieved two knives from the kitchen. Ms. Van Houten put a pillowcase over Mrs. La Bianca's head and wrapped a lamp cord around her neck.

In the living room, Mr. Watson covered Mr. La Bianca's head with a pillowcase, tied his hands behind his back with a leather thong, and tied an electrical cord around his neck. Mr. Watson stabbed Mr. La Bianca multiple times.

Upon hearing her husband struggle, Mrs. La Bianca forced her way up from the bed, grabbed the lamp, and swung it at Ms. Van Houten. Ms. Van Houten knocked the lamp from Mrs. La Bianca's hands, wrestled her back onto the bed, and pinned her down. Ms. Krenwinkel stabbed Mrs. La Bianca in the collar bone, causing the blade to bend. Ms. Van Houten called for Mr. Watson, who came into the room and stabbed Mrs. La Bianca eight times. Mr. Watson handed Ms. Van Houten a knife and instructed her to "do something." Ms. Van Houten stabbed Mrs. La Bianca repeatedly. Ms. Van Houten wiped down surfaces in the house to eliminate fingerprints, changed clothes, and drank chocolate milk from the La Biancas' refrigerator. The group fled.

Mr. La Bianca was found with a knife protruding from his neck, a carving fork protruding from his stomach, and the word, "War" scratched into his stomach. He died as a result of 13 stab wounds and suffered 14 puncture wounds. Mrs. La Bianca died as a result of approximately 41 stab wounds. The phrases "Death to Pigs," "Rise," and references to Helter Skelter were written in the victims' blood on the walls and the refrigerator. Ms. Van Houten was arrested on November 25, 1969.

### DECISION

I acknowledge that Ms. Van Houten committed this crime when she was 19 years old and that he has since been incarcerated for 50 years. In making this decision, I carefully examined the record for evidence demonstrating Ms. Van Houten's increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished culpability as a youthful offender—her impulsivity, inability to adequately foresee the long-term consequences of her behavior, and the inability to manage her emotions—and her other hallmark features of youth. The psychologist who evaluated Ms. Van Houten in 2018 concluded that "it seems very likely that Ms. Van Houten's involvement in the life offense was significantly impacted by" these youth factors.

I also acknowledge that Ms. Van Houten has made efforts to improve herself in prison. She has participated in and facilitated self-help programming, including Narcotics Anonymous, Victim Offender Education Group, and the Actors' Gang Prison Project. She has earned her bachelor's and master's degree and completed vocational training. Additionally, Ms. Van Houten has served on the Inmate Advisory Council and has an exemplary disciplinary record. I have given great weight to her subsequent growth in prison during my consideration of her suitability for parole. However, these factors are outweighed by negative factors that demonstrate she remains unsuitable for parole at this time.

Ms. Van Houten's explanation of what allowed her to be vulnerable to Mr. Manson's influence remains unsatisfying. At her parole hearing, Ms. Van Houten explained that she was turning her back on her parents following their divorce and after a forced abortion. She described herself at the time of her involvement in the Manson Family as a "very weak person that took advantage of someone that wanted to take control of my life and I handed it over." I am unconvinced that these factors adequately explain her eagerness to submit to a dangerous cult leader or her desire to please Mr. Manson, including engaging in the brutal actions of the life crime.

I remain concerned by Ms. Van Houten's characterization of her participation in this gruesome double murder, part of a series of crimes that rank among the most infamous and fear-inducing in California history. Ms. Van Houten explained to the evaluating psychologist that she was "desperate to be accepted," was "chosen" by Mr. Manson, "had to kill them for the beginning of the revolution," and wanted Mr. Manson to "know I was completely committed to him and his cause." At her 2020 parole hearing, Ms. Van Houten reiterated that this was her state of mind at the time of the life crime, adding "I felt obligated to participate. I wanted to participate." Ms. Van Houten recalled that while she was holding Ms. La Bianca down, her crime partner Ms. Krenwinkle, stabbed the victim in the collar bone, which bent the knife. Ms. Van Houten told the psychologist, "I ran to the door of the bedroom, said, 'We can't do it. We can't kill her.'" [Mr. Watson] came into the bedroom, [Ms. Krenwinkle] went into the living room, I stood at the doorway, none of this was conscious, I was running on fear. Tex [Watson] had stabbed her. I assumed she was dead." Ms. Van Houten continued, "She could have been alive, but I assumed she was dead, Tex said, 'Do something,' and handed me a knife. So, I stabbed her in the lower torso 16 times. It was a horrible, predatory feeling." I note that Ms. Van Houten's report that committing the offense was "horrible" conflicts with her subsequent conduct. After the murders, Ms. Van Houten reportedly told a young female follower of Mr. Manson that participating in the murders was "fun." Moreover, she continued to follow Mr. Manson's instructions and "continued to prepare for

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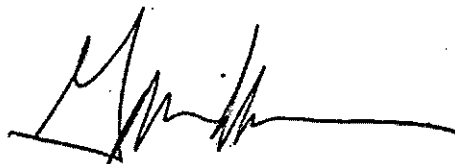
the revolution" until she was arrested. The inconsistency indicates gaps in Ms. Van Houten's insight or candor, or both, which bear on her current risk for dangerousness. The evaluating psychologist noted that several historical factors including "prior violence, violent attitude, other antisocial behavior, troubled relationships, traumatic experiences, and substance abuse problems are present and relevant to future risk of violent recidivism." These factors remain salient despite Ms. Van Houten's advanced age and remain cause for concern should she be released into the community.

Given the extreme nature of the crime in which she was involved, I do not believe she has sufficiently demonstrated that she has come to terms with the totality of the factors that led her to participate in the vicious Manson Family killings. Before she can be safely released, Ms. Van Houten must do more to develop her understanding of the factors that caused her to seek acceptance from such a negative, violent influence, and perpetrate extreme acts of wanton violence.

#### CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Van Houten is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison at this time. Therefore, I reverse the decision to parole Ms. Van Houten.

Decision Date:  
November 27, 2020



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GAVIN NEWSOM  
Governor, State of California

# Exhibit 3

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**COMPREHENSIVE RISK ASSESSMENT  
BOARD OF PAROLE HEARINGS  
FORENSIC ASSESSMENT DIVISION  
CALIFORNIA INSTITUTION FOR WOMEN (CIW)**

**IDENTIFYING INFORMATION**

<b>Inmate Name:</b>	<b>Van Houten, Leslie</b>
<b>CDCR Number:</b>	<b>W13378</b>
<b>Date of Birth (current age):</b>	<b>08/23/49 (age 69)</b>
<b>MEPD:</b>	<b>08/17/78</b>
<b>EPRD:</b>	<b>n/a</b>
<b>YPED:</b>	<b>04/14/89</b>
<b>EPED:</b>	<b>08/23/09</b>
<b>Latest Admission Date:</b>	<b>08/17/78</b>
<b>Life Term Start Date:</b>	<b>08/17/78</b>
<b>Commitment Offense (s):</b>	<b>Murder, 1<sup>st</sup></b>
<b>County of Commitment:</b>	<b>Los Angeles</b>
<b>Placement Score:</b>	<b>19</b>
<b>CDCR Forensic Psychologist:</b>	<b>T. Athans, Ph.D.</b>

**SOURCES OF INFORMATION AND SCOPE OF COMPREHENSIVE RISK ASSESSMENT**

The evaluator considered relevant information contained in the inmate's Unit Health Record and Central File and incorporated findings from the clinical interview and administration of standardized approaches to risk assessment. Information contained in the inmate's confidential file was reviewed. The evaluator met with the inmate on 10/04/18 and informed her that the interview was not confidential, that she had a right not to participate in the examination, and that a written report would be submitted to the BPH. She appeared to understand the nature of the evaluation and the possible consequences of the interview to the best of her ability.

Based upon the inmate's responses to the examiner's questions, it was the conclusion of the undersigned that it was not necessary to use auxiliary aids or services to achieve effective communication. A language interpreter was not needed. The undersigned evaluator reviewed the Disability and Effective Communications System (DECS) system, and 1073,

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



which reflected no need for adaptive services. No disabilities or limitations were noted in the records pursuant to *Clark* and *Armstrong*.<sup>1</sup>

**PSYCHOSOCIAL DEVELOPMENT****CHILD AND ADOLESCENT DEVELOPMENT:**

Ms. Van Houten was born in 08/23/49 (age 69), in Altadena, California, one of two children born to married parents, who later also adopted two children (orphans from Korea, as per POR). She was raised in Monrovia, California, in what she described as a typical middle-class family. When she was approximately 14-years old, her parents divorced. When asked to describe her childhood, she stated, "Until dad left, it was the classic, postwar, 1950s middle-class, white American family."

Ms. Van Houten specified that her father left her mother "for a younger woman," and was married twice after the divorce. Prior to their divorce, she did not witness her parents fighting or yelling and recalled, "I just remember distance. They were not affectionate towards each other, they were towards us, but not towards each other."

She explained, "Dad was from a poor Irish area and was an alcoholic, he sobered up when I was one or two, he went to AA and this created a distance between them. Dad became very involved in AA, and mom was embarrassed by AA, so when they were young they were attracted to each other, but when life went on, they found they had nothing in common."

Her father worked as an auto auctioneer and he was very involved in AA.

After the separation, her father picked-up the children on the weekends, although her mother reminded them "that she told him to."

Ms. Van Houten explained that the divorce was challenging for her. She felt anger towards her mother and also felt a sense of abandonment. She began to associate with kids from other single-mother homes, something that was not common at the time. A boyfriend introduced her to LSD at 15, and she began to use drugs around that time.

She attempted to maintain a positive relationship with her father, noting, "That didn't help much with mom. I always enjoyed dad, he was funny and loving and mom maybe felt like she needed to compete with him for my attention, I knew that he was leaving mom before he told her. I was about 13 or 14." Her mother later found out that she had been told beforehand.

<sup>1</sup> FAD Comprehensive and Subsequent Risk Assessments are administered by licensed psychologists and reviewed by Senior Psychologist supervisors.

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



Ms. Van Houten indicated that her mother was “the primary disciplinarian,” adding, “She didn’t actually discipline, there was no grounding, I kind of wish there had been, I would have liked to know action-consequence more than just anticipating what would disappoint her. I would have liked better boundaries.”

Ms. Van Houten graduated from Monrovia High School. She indicated that she “did well in school,” although after she started smoking marijuana, she was “not motivated.”

She began using alcohol and marijuana around the age of 15 and specified that she “didn’t drink too much.” Regarding marijuana use, she stated, “At that time period, the mid-60s, ’65 to ’66, it was the end of the beatnik era and the beginning of the hippies, LSD, marijuana became daily use, eventually... I got high and thought, ‘How can I do this all the time?’” The POR indicated that Ms. Van Houten used drugs in high school and reported that the dealers were her closest friends at that time.

She denied that she was aggressive as a child or engaged in fighting with others.

She also denied any family history of arrest or incarceration. Her father abused alcohol in the past; however, he stopped using when she was a young child. Her brother “smoked weed” as a teen and stopped using soon thereafter. Further substance abuse family history was denied. She also denied any family history of psychiatric treatment with the exception of brief participation in family therapy. Ms. Van Houten reported that her mother had the children participate in “a couple family therapy sessions, just one or two” after the divorce, noting, “Mom was very progressive.” However, the sessions “didn’t go over well” and were discontinued after four to five meetings.

Ms. Van Houten first had a boyfriend, Bobby, at age 15. She stated, “It all happened after dad left. It’s sort of like me looking for stability, caring, love.” The relationship lasted approximately two years and “fell apart” after she became pregnant. She stated, “I got pregnant with him... we ran off to San Francisco... when we got up there, people didn’t want to have any dealings with any authority by having anybody that young there, so the communes didn’t let us stay. We stayed up there two to three weeks... we were running away from home.” She did not yet realize she was pregnant.

She continued, “When I realized I was pregnant, we told my parents... mom and dad were there, and Bobby came over and we told them... Dad was trying to figure out how to make it work, offered Bobby a job, said he’d help with the rent and mom said, ‘You are not going to have this child, you’re going to go to college.’” She continued, “I’m not attacking either, but, at that point, I really, really wanted the child... and the fact that there was no negotiating with mom... mom was a hard force to recon with, she ran the roost... Bobby’s mom said we could live with them. But, for some reason in my mother’s heritage she was very anti-Catholic, and she wouldn’t even consider it. I had an illegal abortion, which was

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



set up through my mom's psychologist. The whole unspoken middle-class fix-the-problem thing, it changed the course of my life... not that I would have been the best of moms at 17, but it's unknown..."

After the abortion, she "shut down," emotionally. She stated, "I shut-down on mom, finished high-school... I believe I was much further along, I think now it would be illegal, I was showing, I think I was probably further along. It was in my bedroom... some woman came up from Mexico. She told me to just be quiet and not wake my brother or sister. After that, I got into the self-realization movement, with Bobby, but we broke up when I was about 18. When I graduated from high school, I was still with him."

Ms. Van Houten was tearful as she spoke of the abortion and what "might have been." She stated that she was able to process many of the residual emotions in therapy, years later, noting, "I was able to have a lot of therapy... there was a wonderful psychologist and she really had an impact on me being about to talk about, and accept, things."

She reported that she and Bobby spent much time meditating. She indicated, "Bobby and I would meditate with each other, trying to find ourselves through mediation, and we'd sit for hours. Then, my dad took advantage of the fact that I wanted to be a renunciate -sort of like a monk or a nun- of that movement. The self-realization foundation had headquarters and we went up there, and they said they needed someone with secretarial skills. So, dad thought, 'Great, I'll get her into a vocation.' Mom wanted me in a four-year college. There was no way I'd agree to anything she said... and that's a very painful time for me... she tried so hard to mend... by then, she was back at work, she didn't work when dad was there... she was a special ed teacher... I moved in with dad in June, after graduation. Back, then, she wanted to meet once a week, she was trying to hold us together and I look back on those days with such sadness on my part because I know it was really painful for her."

Ms. Van Houten discussed that over time she and her mother mended their relationship, noting, "I'm glad we became good friends. Although, that was the one thing we could never discuss and never work out," (referring to the abortion). Her mother would visit her weekly, until she passed away 15 years ago. Her father also passed away, four to five years ago, in his 90s.

**ADULT DEVELOPMENT:** After high school graduation, she moved in with her father, who lived near the beach and as a result, she had less contact with her boyfriend, Bobby, who remained in Monrovia. She maintained interest in the self-realization foundation, which promoted sobriety and indicated that she "stayed sober until December 1967 or 1968." She stated, "Then, I don't know what happened, but, I got in touch with Bobby and my old friends, and they visited the beach, and I started to get high again. I finished Sawyer Business School, but after that I took off with my friends from Pasadena, went to someone's house in Victorville, the family wasn't there, was kind of a farm house, we just went

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
 Sacramento, CA 95812-4036



together and stayed... didn't stay long... a friend of mine from Pasadena had moved to San Francisco and was going up and I went with her, it all happened in less than a month. Within another month I met Robert Beausoleil. He had been part of Manson's group, he had left to go bail out some people and I met him. Katherine started talking to me about this wonderful place and I had no idea what I would do with my life, and one thing led to another and Katherine and Robert and a woman named Gail, we went driving up and down the coast, going from commune to commune, panhandling."

She continued, "Bobby and Gail argued a lot and Katherine recruited me and I ended up at Spahn Ranch. So, when a bus full of people from the ranch, their bus broke down, Katherine and I stayed with them, and Robert Beausoleil took off. He would come and go. I remember Charlie wanted me to do all I could to keep Robert there."

Ms. Van Houten recounted she was intimate with Robert and explained that the commune lifestyle called for multiple partners. She noted, "I was not taking care of myself. I was numb after the abortion, I can't pinpoint emotions..." Records indicate she had a relationship with Beausoleil and during that time and drove up and down the coast with him.

She continued, "Now, when I look back, I see I was given the opportunity for an entirely different life. My dad was giving me everything. I lived right by the beach, in an apartment, dad paid the rent. I think there was TRW, some big corporation I could have gotten a job at, but, I just turned my back on all of that because of the lifestyle choice at the time, the 60s, working for a military type of thing... sometimes when I look back, I'm noticing as I get older, I reflect a lot more, that's one of the hard ones... but, I would not be who I am."

Ms. Van Houten noted that there were "quite a few youngsters at "the ranch," mainly over 18." She recalled, however, that there were two children under age 18, "They were 13 or 14, their parents gave them to Manson, which I didn't have a sense of then... their parents gave them and took off... he was having sex with them.... He was a pedophile..."

When asked about her relationship with Manson, she stated, "He cared for me, but mostly wanted me there to try to bring Bobby, I was definitely part of the group and part of the evening deals, but when it came to his women, his girls that he slept with, I wasn't really one of those, although I did sleep with him..."

She was asked to describe life on the ranch, to which she stated, "At first it seemed fun, but underneath all the freedom was a really strict doctrine, that didn't reveal itself until much later, probably two or three years after I was here (in prison)."

Regarding the philosophy at the ranch, she stated, "We were indoctrinated, we would keep it alive among each other, if anything was said about my past, than I'd be mocked, we had to wear different clothes every day, nothing was ours. Charles would do long length tirades

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



about our parents, and how they destroyed us. Everything that was intuitive in me was blocked by self-criticism. If I thought, 'hey, that didn't make sense,' he'd begin this thing, like, 'no sense makes sense....' He knew what he was doing."

She continued, "I became indoctrinated slowly. I was broken enough that when someone said, 'You need to come with me, he's special, he's like Christ reincarnated,' I was so broken, that I wanted to belong and I wanted to belong to something that wasn't connected to my past. And I allowed it to happen. I didn't realize it that this guy is messing with my head."

Ms. Van Houten explained that she realized how far she had allowed him to "get in (her) head" once she started to regain her identity (after she was incarcerated). She stated, "There was this period of time when two women from the ranch came here... they kept Pat and Susan and I in isolation once they abolished the death penalty... they brought two women from the ranch in, they'd been convicted of armed robbery and they were still doing 'the talk,' and I looked at Pat and I said, 'I'm different... I'm not doing this.' The system really worked with me and for me, to rehabilitate me."

Ms. Van Houten spoke positively about the "progressive warden" at the time, who "brought in feminists, and had (her) mother bring in photos" to help her regain who she was. She stated, "They were very strict about who could visit me... it's been a long haul."

Ms. Van Houten was retried for the crime and during that time period she spent six months living in the community, on bail. She supported herself by working as a legal secretary.

She reported that, during her incarceration, she was married once, briefly. She stated, "I was married in here, after my third trial. I met him in the visiting room, he started writing to me... he was a grifter, nickel-and-dime crimes, and he said he was rehabilitated. I wanted some structure of a life. I had been out on bail for six months and I came back. In '77, I had a complete reversal of my conviction, I had a second trial and I didn't bail out then, it was expensive and my family had paid enough, I wanted to carry what was mine to carry. It was a hung jury. I was tried a third time. During that time, I was out on bail. I lived in Silverlake and I worked as a legal secretary at that time. When I came back, I wanted to be with somebody and have the three-day visits. He wanted to exploit me, though, and live off that, and I divorced him. He ended up doing a GTA and got arrested, and in the car he had, he had a C.O.'s shirt, a female, so, they thought I was trying to escape, but they cleared me of it." She indicated that later she also corresponded with another man, who ended up hanging himself.

Over the course of her lengthy incarceration, Ms. Van Houten has participated in a number of self-help programs, she's made educational advancements, and she's worked in various capacities, including as a tutor for the Chaffee College program. She indicated that she is

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



currently assigned as Chairperson of the Inmate Advisory Council. A review of SOMS reflected current involvement in the Victim Offenders Education Group (VOEG), Actors' Gang, and other treatment groups.

Ms. Van Houten maintains contact with her brothers. Her sister lives out of state and they have not been in touch. She also remains in contact with a number of friends, some of whom have been supportive of her throughout her life.

**CRIMINAL HISTORY**

**JUVENILE AND ADULT RECORD / PRIOR PRISON COMMITMENTS:** Records reflect no juvenile arrests/adjudication.

Ms. Van Houten's adult criminal history includes the following arrests/convictions: Grand Theft Auto (released, insufficient evidence); Grand Theft Auto (no disposition shown); Burglary (rejected by DA, insufficient evidence to prosecute); Grand Theft Auto (no disposition shown); and the life crime, Murder in the First Degree (two counts), for which she was sentenced to 7-years to Life in state prison.

**PRIOR PERFORMANCE ON SUPERVISED RELEASE:** Ms. Van Houten has not been placed on supervised release.

**PRIOR VIOLENCE:** The reader is respectfully referred to the Los Angeles County Probation Officer's Report dated 04/12/71 and the Court of Appeals decision report dated 08/10/68 for a detailed account of the crime. Ms. Van Houten was convicted of Murder in the 1st Degree (two counts) and sentenced to 7-years to Life in state prison.

Ms. Van Houten was involved in the stabbing deaths of Mr. and Mrs. La Bianca. Mr. La Bianca was stabbed 12 times and Mrs. La Bianca was stabbed 42-times (Ms. Van Houten was found to have stabbed her approximately 16 times). After the murders, Ms. Van Houten cleaned fingerprints from items at the home. She was arrested approximately two months later.

**CLINICAL ASSESSMENT**

**REVIEW OF PRIOR PSYCHOLOGICAL EXAMINATIONS / RISK ASSESSMENTS:** The Comprehensive Risk Assessment (CRA), dated 02/10/16, by K. Kropf, Ph.D., found Ms. Van Houten to represent a "low" risk of violence. Diagnoses included Other Hallucinogen Use Disorder, Severe; Cannabis Use Disorder, Severe; and Stimulant Use Disorder, Moderate. Dr. Kropf also evaluated Ms. Van Houten in March 2007 and similarly opined that she represented a "low" risk for future violence at that time.

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



Dr. Larmer conducted a Subsequent Risk Assessment (SRA) on 02/20/13, which served to update the 2010 Psychological Evaluation. The SRA did not independently assess violence risk, but rather provided an analysis of changes in dynamic factors since 2010. Dr. Larmer opined that Ms. Van Houten appeared to have maintained the gains she'd made since the last evaluation.

The Psychological Evaluation, dated 03/03/10, by Dr. Carrera, found Ms. Van Houten's violence risk to be low and included the diagnosis Polysubstance Dependence, in a Controlled Environment.

MENTAL STATUS EXAMINATION: Ms. Van Houten presented for the current evaluation as a 69-year-old female who appeared her stated age. Her grooming and hygiene were within normal limits for the prison population and her clothing was clean. There were no tics, tremors, or unusual body movements observed. There were no displays of physical agitation or slowness.

Ms. Van Houten was oriented to person, place, time, and purpose of the evaluation. She agreed to participate in the evaluation and maintained appropriate eye contact and was cooperative throughout the evaluation. She was pleasant, well-spoken, and seemed invested in the interview process. She appeared to make an effort to be forthcoming with information and took time to provide thoughtful responses to questions posed to her.

The content of her thoughts was logical, coherent, goal-directed, and linear. There was no evidence of a thought disorder as indicated by disorganization, tangential or loosely associated thoughts, or unreasonable fears that others intended to harm her. Furthermore, there was no indication that she was responding to internal stimuli or perceptual distortions of any kind (i.e., auditory, visual, or tactile hallucinations).

Her long-term memory appeared to be intact and his abilities in the areas of attention and concentration appeared to be within normal limits.

There was no evidence of suicidal or homicidal thoughts or behavior and she denied having any thoughts of self-harm or the desire to harm anyone else. She presented with euthymic (average) mood and denied experiencing problems with sleep or appetite.

SUBSTANCE ABUSE HISTORY AND RELATED DISORDERS: Ms. Van Houten reported that she first tried alcohol around age 15, although she specified that she "didn't drink too much." Around the same age, she began to use marijuana and did so on a daily basis. She also used LSD, benzedrine, mescaline and methedrine.

The POR indicated Ms. Van Houten began to use LSD in her teens when a boyfriend introduced her to it. She also used benzedrine, sometimes concurrently with LSD. The POR



**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



also noted the use of marijuana and other drugs (mescaline, methedrine). At "the ranch," she used LSD and marijuana. According to the POR, Ms. Van Houten reported that at the ranch they "smoked grass every night" and "they grew it out there." The POR further indicated that she and others involved in the life crime, were under the influence of LSD on the night in question.

The 2016 CRA indicated that Ms. Van Houten began to use drugs (LSD, marijuana, Benzedrine, and methamphetamine) at the age of 15. She mostly used LSD and marijuana, and specified that her use spanned a four-year period. Therein, she also reported having used substances prior to her re-sentencing, while she lived in the community.

Ms. Van Houten reported she's remained sober for many years and noted, "Part of the reason is, that I really believe I have an addictive gene that I keep an eye on. Also, it's extremely disrespectful for the family and the memory of my victims that I would use. I love being sober. When I think of freedom, alcohol and drugs are the last thing on my mind. I love knowing who I am when I go to sleep and when I wake up and that my decisions are not influenced by anything."

She has not been issued any substance-abuse related RVRs and she has participated in substance-abuse treatment over the years, including in NA. Her relapse plan includes maintaining a sponsor in the community and remaining involved in substance-abuse treatment groups.

Ms. Van Houten met the relevant diagnostic criteria for Cannabis Use Disorder, Stimulant Use Disorder, and Hallucinogenic Use Disorder, all in a Controlled Environment. She engaged in the daily use of marijuana and also used LSD, methedrine, Benzedrine, and other drugs prior to her incarceration. Her current incarceration necessitates the qualifier In a Controlled Environment.

MAJOR MENTAL DISORDER / PERSONALITY DISORDER: Ms. Van Houten denied that she was treated for any psychiatric disorder prior to her incarceration. During her incarceration, she has not met criteria for MHSDS inclusion. However, she has participated in individual psychotherapy and group therapy for personal growth (i.e., in order to address past relationships, history of traumatic incidents, how her past impacted her decisions, etc.).

Ms. Van Houten did not meet the relevant diagnostic criteria for a personality disorder, at this time. Records reflect no history of juvenile arrests. She graduated from school and did not engaged in disruptive behavior (i.e., no history of fighting with others or truancy). During her lengthy incarceration, she has been issued one RVR, in 1981, for verbally communicating with women. There is no evidence of ongoing difficulty with rules or an attempt to violate the rights of others. She has participated in self-help programs as made available to her and has made an effort to understand what contributed to the violence she

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



perpetrated at age 19. There is no evidence that suggests a pervasive and maladaptive pattern of interpersonal relating at this time.

INSTITUTIONAL ADJUSTMENT / PROGRAMMING: Ms. Van Houten was granted parole at her 2017 BPH parole consideration hearing. However, her grant was reversed by the Governor's Office in January 2018. Her next parole consideration hearing is scheduled for January 2019.

When asked how she received the news regarding grant reversal, she stated, "The first thing that I would say is that being found suitable was an amazing, and is an amazing, experience for me. And, it's been a heartbreak. Life goes on, so what I am trying to do, and what I have done, is keep my feet on the ground and live my life in the way that I have that allowed the Board to find me suitable."

Since the last hearing, Ms. Van Houten has continued to remain disciplinary free. Her last RVR was issued in 1981. There is no indication that she has engaged in violence while incarcerated. She has also continued to participate in self-help programs and to work as assigned.

Over the course of her lengthy incarceration, Ms. Van Houten has participated in numerous self-help programs, work assignments, and volunteer positions. She has also advanced educationally and earned a graduate degree (Masters in Humanities). She currently serves as the chairperson of the Inmate Advisory Council. She stated, "I worked for 12 years as a tutor for Chaffee College. I still volunteer for that. I belong to a small home group of NA on my unit. I'm a facilitator for the Actors' Gang Prison project, Tim Robbins' Actors' Game is based on this. It's like an emotional awareness group, done it for five to six years... it's a cool way to get women who are not interested in therapy think that that's not a bad idea. I facilitate the Victim Offender group (VOEG). I'm so busy, I'm involved in the suicide prevention outreach committee... I love therapy... this is one of the prisons that allows you to have therapy if you're not in MHSDS. I'm in an Aging in Prison group, right now... hitting 70 is a whole lot different than hitting 50 and it's important to me to age with as much grace as I can."

Records indicate she has participated in mental health treatment groups such as stress management, cognitive therapy, and others, despite not being a MHSDS participant.

PAROLE PLANS IF GRANTED RELEASE: Ms. Van Houten was asked to discuss her plans for parole with respect to residence and employment. She indicated that she has the intention to parole via transitional program in the community and has identified potential sites that will provide her with residence and continued self-help programs. She also has been offered support from friends, who are willing to assist her upon parole. Although not independently verified, her plans appear viable.

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



Ms. Van Houten has made efforts to address sobriety concerns and expressed the understanding that sobriety upon parole is not synonymous with sobriety in the prison setting. As such, she intends to maintain a sponsor upon parole and to continue her involvement in substance-abuse treatment.

She indicated that her support system includes many friends she's known for a number of years, some throughout her life, as well as family members (her brothers and their children).

**ASSESSMENT OF RISK FOR VIOLENCE: HCR-20-V3: <sup>2</sup>****ANALYSIS OF HISTORIC FACTORS:**

Ms. Van Houten displayed the presence of predictive factors for future dangerous behavior within this domain, including prior violence, violent attitude, other antisocial behavior, troubled relationships, substance abuse problems, and traumatic experiences. The risk factors, major mental disorder, personality disorder, employment problems, and treatment and supervisions response, are not currently present or relevant to violence risk.

Ms. Van Houten committed the life offense at the age of 19, along with other individuals who resided at "the ranch." Prior to this, she had roamed up and down the state with friends, who eventually introduced her to Manson. When Ms. Van Houten was 14 years old, her parents divorced. At 15, her boyfriend introduced her to drugs and she began to use LSD and marijuana, among other substances. She became pregnant in her teens and experienced the trauma of an unwanted abortion that was forced upon her by her mother. After the abortion, she felt emotionally numb. She was unable to assess or process her emotions at the time, and she delved even deeper into drug use. She eventually finding herself with a group of individuals traveling along the coast. While involved with Manson's group, she engaged in various criminal acts and was arrested, although not prosecuted. The historical predictive factors prior violence, violent attitude, other antisocial behavior, troubled relationships, traumatic experiences, and substance abuse problems are present and relevant to future risk of violent recidivism.

Ms. Van Houten has a history of engaging in impulsive behavior, including drug use and promiscuity, and her involvement in the life crime reflected a callous lack of empathy for the victims. Nonetheless, absent are a number of characteristics commonly seen in psychopathic individuals. For nearly 50 years, she has exhibited prosocial behaviors and has sought positive relationships with others. She has not shown herself to be deceptive, conning, or to lack remorse. Her total PCL-R score was below the mean of North American

<sup>2</sup> HCR-20-V<sup>3</sup> administration and decision making requires specific knowledge, skills, and abilities established through licensure and training and experience in forensic assessment of violence risk.

**BOARD OF PAROLE HEARINGS**P.O. Box 4036  
Sacramento, CA 95812-4036

female inmates and below the cutoff or threshold commonly used to identify dissocial or psychopathic personality.

**ANALYSIS OF CLINICAL FACTORS:** (The Clinical section of the HCR-20-V3 takes into consideration Ms. Van Houten's behavior and functioning since the 2016 CRA, with greater emphasis on more recent behaviors).

Ms. Van Houten demonstrated insight into the contributing factors of the life crime and was able to adequately discuss the causative factors involved. Over the years, she has participated extensively in self-help programs, including individual therapy, which have helped her understand the pertinent factors that allowed her to become involved in the life crime. Although she spoke of her susceptibility to the influence of Manson, she also wished to take full responsibility for her behavior without minimizing her role or externalizing blame. Ms. Van Houten's expressions of remorse for the victims appeared genuine. At present, the risk factor, lack of insight, is not present.

Ms. Van Houten reported, "It was the winter of '69. A lot of us were in the desert. He (Manson) said things had changed and there would be a revolution and he began to speak of the violence and our group began to be about him preparing us to be living in a constant state of fear. He would have us sneak up on each other so our awareness was up. The theory behind it was his belief system and all these ideas. Did he do it for other reasons? It doesn't matter to me. I never got into what he was really about. Once I realized who he was, three to four years later.... But, it wasn't until Dr. Ponath and I talked, had therapy... I told her my life is fragmented- this was before Manson, this was during Manson, this was after Manson- I just want to be me. I don't want him defining my life, pre, post, and that was really when I felt I was able to cleanse myself of him. That really sealed the deal, the only time I would really remember his existence is when I was dealing with his life.... He believed and spoke to us that there would be a change..."

When asked to discuss the motivating factors involved, she stated, "My motivation was to let him know I was completely committed to him and his cause. Pat had gone the night before. I'd been living as her support. He told me early on, 'You need to stay with Pat, she knows what's going on, stay and be near her.' I felt I really needed to go... had to kill them for the beginning of the revolution."

She was asked why she felt she it was important to show her commitment to him, to which she replied, "He always made me feel that I wasn't quite measuring up to what he had hoped for and I needed to have him believe that in me, the group, I needed to belong, it's an embarrassing thing to say at this age, how weak I was and how needy I was."

Ms. Van Houten spoke slowly as she recalled the night of the offense. She stated, "I was told to follow everything Tex said. Pat and I went into the house and Mr. and Mrs. La

**BOARD OF PAROLE HEARINGS**P.O. Box 4036  
Sacramento, CA 95812-4036

Bianca were on the sofa. We went to the kitchen and got knives. I took Mrs. La Bianca into the bedroom. They were frightened and shook up. I went to hold her onto the bed. There's an issue about her having a pillow case. I don't remember putting a pillow case on her head, but there's good possibility I could have. I went to hold her down and she began to hear Mr. La Bianca dying. She yelled out for her husband. I was trying to hold her down and Pat went to stab her and hit the collar bone and it bent. And I ran to the door of the bedroom, said, 'We can't do it. We can't kill her.' He came into the bedroom, Pat went into the living room, I stood at the doorway, none of this was conscious, I was running on fear. Tex had stabbed her. I assumed she was dead. That's been an issue of controversy for Board hearings. She could have been alive, but I assumed she was dead, Tex said, 'Do something,' and handed me a knife. So, I stabbed her in the lower torso 16 times. It was a horrible, predatory feeling."

When asked how she felt, she stated, "I felt horrible, aggressive, predatory... after that, I began to wipe fingerprints. Manson wanted us to do horrible things. He called it stopping people's consciousness. Instead of painting the walls with blood, Pat did that, I wiped fingerprints... Tex, in the meanwhile, took a shower and that me uncomfortable. By then I wanted to get out. He told me to give him my change of clothes, that I needed to change into clothes, I said mine weren't soiled. He told me to get clothes out of her closet. I wore her clothes out of the house. We took food out of the refrigerator, cheese and milk, we ate it, hid in the bushes, hitchhiking back to the ranch."

She stated that after they returned to the ranch, they soon left. She stated, "Manson sent us to some place called 'fountain of the world.' He wanted us away. Tex warned me after he saw me talking to Diane, warned me not to speak to anyone about what happened. That made me wonder, because it was going to happen every night, made me wonder, if we were all in agreement, then why not talk about it?"

Ms. Van Houten explained that, at the time, she believed what they were doing was necessary and that although she was sorry that the victims had to die, she believed it was "necessary for the greater good, the revolution." She stated, "It was in the record that I told the 13-year old that the more I did it the more fun I had, I don't deny it, but I don't remember. But, that was also when Tex told me don't say anything."

She tearfully recalled having "one last chance" to leave the ranch, and noted, "I had one chance of leaving the ranch before the murders. We weren't allowed to leave. Manson had a lot of bikers coming around and one of them and I had gone off on our own, up in the hills, and when I came back, Manson was angry, told Tex, 'You need to spend more time with her,' like keep an eye on her and he threw the guy off the ranch. A day or two later, a bunch of guys came by in a car, and I was walking, and they called out to me, 'Get in, now,' and it was like my feet were stuck in dried cement. I was so afraid to go. I said, 'I can't,' and they just took off."

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



Ms. Van Houten explained that, at that time, she believed she had been “chosen.” She stated, “I had been chosen to be near this guy who had this vision and reincarnation and he had the vision and made me feel I was obligated because of what I’d been given by him. He’d tell us, ‘If you leave, when the revolution comes, they’ll do all this stuff to you and you’re only safe with me.’”

When asked to discuss the causative factors involved, she replied, “I feel that before my dad left, I was in a structure that really worked for me, and when dad left it shifted it, and it’s not like dad leaving in ‘80 or ‘90; dad leaving in 1965 changed a lot in our small town. That didn’t happen that often. It created a window for me where I began to move into a different set of kids, mostly single-parent kids, that led me to curiosity about drugs, led me to my boyfriend, and the abortion, which led me to wanting to get away from my mom and my family. Before the abortion, I was already involved in the hippy thing of criticizing our parents and looking for an alternate lifestyle, but that left... when I left with Bobby and Katherine, they told me all I have to do is cut from my past, so, I called my mom and told her I’m dropping out of society and you’ll never hear from me again. And I avoided talking about the abortion... later, I protected her, mom, because it would devastate her... that’s how I got there. It’s a pathway that got opened that I began to walk down.” She continued, “I went where I thought I’d be accepted and safe and cared for and instead it was the worst thing that could have happened.”

She asked how she would describe herself at that time, to which she replied, “I was desperate to be accepted. I was weak, I was incapable of having original thoughts by the time I was at the ranch, my intellect had been smushed, I’m bright, but it wasn’t working for me, I don’t mean it in an egotistical way, but I’m bright, and I was doing all I could to not be. Desperate to be accepted, that’s what I see most, I had no sense of value. My value came in the eyes of other people.”

Ms. Van Houten was also asked how she is different now, to which she replied, “Now, I’m a person of independence, I understand I live in a very controlled environment, but who doesn’t? I have my own sense of who I am. It’s interesting being the chairperson of the IAC, I represent the woman of the prison with the administration and it’s been wonderful to check my sense of what I think is an issue that needs to be raised. Who I am, I really think I’m able to be challenged on my ethics, my morality, my conduct, how do I correct what I consider erroneous behavior? I see myself as quite independent. I believe I’m a socially conscious person. I don’t run from my intellect. I like that I’m an academic, I’m proud that I’ve obtained a Master’s degree from CSU Dominguez in Humanities... I feel it’s very important that I not try to forget what happened. Learning to live with what I did is important.”

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



Ms. Van Houten expressed remorse for the death of the victims and stated that even at the time of the crime she felt “bad that this had to happen to them,” and clarified, “Not that it shouldn’t have happened... in my head, I had it like we were going to war.” She stated that now she feels “very, very sorry... deeply sorry.”

Ms. Van Houten last appeared before the BPH in 2017 and was granted parole. However, the decision was reversed by the Governor’s Office in 2018. She is next scheduled to appear before the BPH in 2019. Ms. Van Houten has continued to remain disciplinary free and to participate in self-help programs, work programs, and volunteer positions. At present, the risk factors, instability, current symptoms of a major mental disorder, violent ideation, and treatment and supervision response, are not present or relevant to violence risk.

**ANALYSIS OF RISK MANAGEMENT FACTORS:**

Ms. Van Houten intends to parole via transitional program in the community where she will be provided with residence, vocational training, and continued self-help programs. She also has the support of a number of friends and family members, who are willing to assist her upon parole. It is understandable that Ms. Van Houten will experience some degree of stress as she paroled after such a lengthy incarceration. This will likely be mitigated by her decision to parole via structured community program and by the support she expects to receive from friends/family. Her stress level may also be aggravated by potential notoriety due to her high profile case. Although not independently verified, it does not appear that Ms. Van Houten’s living situation or the personal support she expects to receive are relevant risk management factor at this time. Stress is rated as a partially present and somewhat relevant to risk.

Ms. Van Houten’s ability and willingness to abide by the rules of parole is foundational for a successful parole. Over her lengthy incarceration, she’s demonstrated the ongoing ability and willingness to follow rules and policy as evidenced by the lack of 115s and 128As on her record. She has participated in programs offered to her and has made efforts to address the contributing factors of the life crime. The risk management factor, treatment and supervision response, is not present.

**OTHER RISK CONSIDERATIONS:** Youthful Offender: Ms. Van Houten met the criteria for “youthful offender.” She committed the controlling offense at the age of 19 and is currently 69-years-old.

Ms. Van Houten reported she was raised in what was considered a typical middle-class family. All was seemingly well until her parents divorced when she was 14-years old. Prior to this, although she did not observe altercations, she noticed the lack of warmth between her mother and father. Her father left her mother for a younger woman and informed Ms. Van Houten of his desire to separate before he even told his wife. Ms. Van Houten remained

**BOARD OF PAROLE HEARINGS**P.O. Box 4036  
Sacramento, CA 95812-4036

close to her father, which likely "did not sit well" with her mother. She realized that her life changed in a number of ways after the divorce. She began to associate with others from single-parent homes (not common at the time), had less contact with her father who lived at the beach, and she was introduced to alcohol and drugs. She entered her first long-term relationship at age 15 and was pregnant soon thereafter. She informed her parents of the pregnancy and her father attempted to problem-solve by offering her boyfriend a job and offering to assist them financially as they raised their child. However, her mother insisted on an abortion and arranged for someone to come to their home, from Mexico, and perform the abortion. Ms. Van Houten was not medicated during the procedure and she recalled being told to keep quiet so her siblings would not hear her. She believes she was further along than three months and felt she had no choice in the matter. After the abortion, she felt "numb" emotionally. She wanted nothing to do with her mother and moved in with her father soon after high school graduation. She continued her involvement with a self-realization movement, which promoted sobriety. However, soon after reconnecting with her old friends, she began to use drugs, again. She moved from the beach and traveled nearby with friends, staying in Victorville for a short while, before traveling up the coast. On one of her journey's, she met people who introduced her to "the ranch" and Charles Manson. She felt a strong desire to belong and she found herself drawn to the teachings of Manson and the beliefs presented to her. She believed she was "chosen." She was not allowed to own clothes and she was reminded on a daily basis that her past did not matter and she needed to cut all ties to the world outside "the ranch." At the age of 19, she committed the crimes that led to her incarceration.

Based on the current evaluation and the available records, it seems very likely that Ms. Van Houten's involvement in the life offense was significantly impacted by characteristics of youth, including impulsivity, the inability to adequately foresee the long-term consequences of her behavior, and the inability to manage her emotions that resulted from a forced abortion. These factors contributed to the notion of diminished culpability with respect to Ms. Van Houten's involvement in the life crime.

Ms. Van Houten has been incarcerated for most of her adult life. She is now approaching 70 years of age. She reported that prison served to rehabilitate her and she credits a forward-thinking warden from the 1970s, as well as numerous other staff members and clinicians, with helping her regain her identity. Ms. Van Houten expressed what appeared to be genuine regret for her involvement in the life crime and she assumed full responsibility for her behavior, without externalizing blame. It appears she has spent decades attempting to understand, or gain insight into, the factors that led her to become involved with Manson and to believe wholeheartedly what she was instructed to believe. Ms. Van Houten has not shown herself to be violent in the many years of her incarceration. She has followed the rules of the institution, has participated in self-help programs and therapy extensively, has earned positive reports from supervisors and clinicians, and overall, she appears to have benefited from the rehabilitation process.



**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
 Sacramento, CA 95812-4036



Elderly Parole: Ms. Van Houten is currently 69-years old. She has been incarcerated for the majority of her adult life. She described enjoying good health and does not present with physical or cognitive problems, at the present time, that would impact her ability to function independently upon parole. A review of her medical file reveals no chronic medical problems that require treatment. She is prescribed calcium at present.

Ms. Van Houten has been involved extensively in self-help programs over the years. She has also benefited from her participation in individual and group therapy, which has provided her with the opportunity to address the contributing factors of the life crime. She does not underestimate the impact of her crime, both with respect to the victims and their families, or to society and she appears to be genuinely remorseful for her role in the life crime. She appears to have benefited from the natural maturation that comes with age, as well as from the many years of programming offered by the institution. Ms. Van Houten appears to have seized every opportunity provided to her to make positive changes in her life (with respect to education, vocation, and self-help). At present, her risk for violent reoffending is in the low range and it does not appear as though age-related concerns will impact her ability to parole successfully.

**RISK OF FUTURE VIOLENCE: CASE FORMULATION AND OPINIONS**

Based upon an analysis of the presence and relevance of empirically supported risk factors, case formulation of risk, and consideration of the inmate's anticipated risk management needs if granted parole supervision, Ms. Van Houten represents a **low** risk for violence. She presents with non-elevated risk relative to long-term inmates and to other parolees. Low-risk examinees are expected to commit violence much less frequently than all other parolees.

The 2016 CRA found Ms. Van Houten to represent a "low" risk of violence. Since that time, she has continued to program in a positive manner. She has remained disciplinary free, she has continued to participate in self-help programs, and she has maintained a hopeful outlook despite the reversal of her parole grant.

Ms. Van Houten is nearly 70-years old and has been incarcerated for almost 50 years. During that time period, she has not engaged in violence, she has largely abided by the rules of the institution having been issued one 115 in 1981, and she has participated in numerous hours of therapy, treatment groups, and self-help programs. She has addressed issues of sobriety and has made a concerted effort to understand what prompted her to engage in the life crime. She accepted responsibility for her behavior without minimizing her role or externalizing blame and although she recognized the impact of her emotional functioning on her behavior, she wished to clarify that she alone was responsible for her involvement in the crime. At present, she appears to represent a low risk for violent recidivism.

**BOARD OF PAROLE HEARINGS**

P.O. Box 4036  
Sacramento, CA 95812-4036



Generally speaking, the current recidivism rates for long-term offenders are lower than those of other prisoners released from shorter sentences. The Board defines overall risk ratings relative to other life prisoners.

Respectfully submitted,

Handwritten signature of T. Athans in black ink.

T. Athans, Ph.D., CA License # PSY-19233  
Forensic Psychologist  
Board of Parole Hearings / Forensic Assessment Division  
California Department of Corrections and Rehabilitation

Handwritten signature of J. Tehrani, Ph.D. in black ink.

Reviewed by: \_\_\_\_\_  
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Senior Psychologist, Supervisor  
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California Department of Corrections and Rehabilitation

**DATE APPROVED<sup>3</sup>: 11/1/18**

<sup>3</sup> CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act and the Health Insurance Portability and Accountability Act (HIPAA). If you are not the intended recipient, please contact the sender and destroy all copies of this communication.

# Exhibit 4

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California

# BALLOT PAMPHLET

## AVISO

Una traducción al español de este folleto de la balota puede obtenerse si completa y nos envía la tarjeta con porte pagado que encontrará entre las páginas 80 y 81. Escriba su nombre y dirección en la tarjeta en LETRA DE MOLDE y regrésela a más tardar el 24 de octubre de 1988.

**General  
Election**

**NOVEMBER 8, 1988**

### CERTIFICATE OF SECRETARY OF STATE

I, March Fong Eu, Secretary of State of the State of California, do hereby certify that the foregoing measures will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 8, 1988, and that this pamphlet has been correctly prepared in accordance with law.



Witness my hand and the Great Seal of the State in Sacramento, California, this 18th day of August 1988.

*March Fong Eu*

MARCH FONG EU  
Secretary of State

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## Secretary of State

SACRAMENTO 95814

Dear Fellow Californians:

This is your California Ballot Pamphlet for the November 8, 1988, General Election. It contains the ballot title, a short summary, the Legislative Analyst's analysis, the pro and con arguments and rebuttals, and the complete text of each proposition. It also contains the legislative vote cast for and against each measure proposed by the Legislature.

This pamphlet also contains a statement from each of California's five qualified political parties, summarizing its policies and principles. These are provided in the extra space available in this pamphlet to give you, the voters, a clearer understanding of the philosophies of the parties and the candidates who represent them.

Many rights and responsibilities go along with citizenship. Voting is one of the most important, as it is the foundation on which our democratic system is built. Read carefully all of the measures and information about them contained in this pamphlet. Legislative propositions and citizen-sponsored initiatives are designed specifically to give you, the electorate, the opportunity to influence the laws which regulate us all.

Take advantage of this opportunity and exercise your rights by voting on November 8, 1988.

SECRETARY OF STATE

Please note that Proposition 78 is the first proposition for this election. To avoid confusion with past measures the Legislature passed a law which requires propositions to be numbered consecutively starting with the next number after those used in the November 1982 General Election. This numbering scheme runs in twenty-year cycles.

# CONTENTS

Proposition	Pages
<b>BOND ACTS</b>	
78 Higher Education Facilities Bond Act of 1988.....	4-7
79 1988 School Facilities Bond Act.....	8-11, 114
80 New Prison Construction Bond Act of 1988.....	12-15, 114
81 California Safe Drinking Water Bond Law of 1988.....	16-19, 114-116
82 Water Conservation Bond Law of 1988.....	20-23, 116-118
83 Clean Water and Water Reclamation Bond Law of 1988.....	24-27, 118-120
84 Housing and Homeless Bond Act of 1988.....	28-31, 120-121
85 Library Construction and Renovation Bond Act of 1988.....	32-35, 121-122
86 County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988.....	36-39, 122
<b>LEGISLATIVE CONSTITUTIONAL AMENDMENTS</b>	
87 Property Tax Revenues. Redevelopment Agencies.....	40-41, 122-123
88 Deposit of Public Moneys.....	42-43, 123
89 Governor's Parole Review.....	44-47
90 Assessed Valuation. Replacement Dwellings.....	48-51
91 Justice Courts. Eligibility.....	52-55
92 Commission on Judicial Performance.....	56-59
93 Veterans' Property Tax Exemption.....	60-61, 123
94 Judges.....	62-65
<b>INITIATIVE CONSTITUTIONAL AMENDMENTS AND STATUTES</b>	
95 Hunger and Homelessness Funding.....	66-69, 123-127
96 Communicable Disease Tests.....	70-73, 127
97 State Occupational Safety and Health Plan.....	74-77
98 School Funding.....	78-81, 127-128
99 Cigarette and Tobacco Tax. Benefit Fund.....	82-85
100 Insurance Rates, Regulation.....	86-89, 128-135
101 Automobile Accident Claims and Insurance Rates.....	90-93, 135-137
102 Reporting Exposure to AIDS Virus.....	94-97, 137-139
103 Insurance Rates, Regulation, Commissioner.....	98-101, 140-144
104 Automobile and Other Insurance.....	102-105, 144-157
105 Disclosures to Consumers, Voters, Investors.....	106-109, 157-158
106 Attorney Fees Limit for Tort Claims.....	110-113
Political Party Statements of Purpose.....	159

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**Official Title and Summary Prepared by the Attorney General**

**GOVERNOR'S PAROLE REVIEW. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Provides that no decision of the parole authority which grants, denies, revokes, or suspends the parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days. Permits Governor to review the decision during this period subject to statutory procedures. States that the Governor may only affirm, modify, or reverse a parole authority decision on the basis of the same factors which the parole authority may consider. Requires Governor to report to the Legislature the pertinent facts and reasons for each parole action. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: The fiscal impact of this measure is unknown and depends on the actions of the Governor. Grants of parole would result in relatively minor savings. Denials of parole could result in relatively minor costs.

---

**Final Vote Cast by the Legislature on SCA 9 (Proposition 89)**

Assembly: Ayes 63  
Noes 11

Senate: Ayes 29  
Noes 5

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**Analysis by the Legislative Analyst**
**Background**

Under California statutes, adults who commit murder are sentenced to an indeterminate term in state prison or, in the case of first degree murder, death. A minor who commits murder when he or she is 16 years of age or older may be dealt with under the juvenile court law or may be tried as an adult and sentenced accordingly. If tried as an adult, however, the death penalty may not be imposed if the person was under the age of 18 at the time of the commission of the crime. Other minors who commit murder may be committed to the Department of the Youth Authority for an indeterminate period, although they may be confined only until the age of 25 unless an order or petition for further detention has been made.

The parole release date for state prison inmates serving an indeterminate term is set by the Board of Prison Terms. The date of release on parole for minors committed to the Youth Authority is set by the Youthful Offender Parole Board. In making parole decisions, the Board of Prison Terms and the Youthful Offender Parole Board are required to consider many factors, including the following: the seriousness of the inmate's offense; the safety of the public; and statements from the public.

Under the California Constitution, the Governor may grant a reprieve, pardon, or commutation after a person is sentenced. The Governor may not grant a pardon or commutation to a person who has been twice convicted

of a felony, unless the action is recommended by four members of the State Supreme Court.

**Proposal**

This constitutional amendment would allow the Governor to approve, modify, or reverse any decision by the parole authority (Board of Prison Terms or Youthful Offender Parole Board) regarding the parole of persons who are sentenced to an indeterminate term for committing murder. The Governor, subject to specified procedures, would have 30 days from the date of the board's parole action to review the decision. In reviewing parole decisions, the Governor could consider only that information which the Board of Prison Terms and the Youthful Offender Parole Board are required to consider in making their parole decisions.

**Fiscal Effect**

The fiscal impact of this constitutional amendment is unknown and would depend on the actions of the Governor. The measure could result in relatively minor state savings if the Governor decided to release a person from prison or the Youth Authority after the person's parole had been denied by the Board of Prison Terms or the Youthful Offender Parole Board. The measure could, however, result in relatively minor state costs if the Governor decided to deny parole to a person who would have been granted parole by the Board of Prison Terms or the Youthful Offender Parole Board.

## Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 9 (Statutes of 1988, Resolution Chapter 63) expressly amends the Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO ARTICLE V, SECTION 8

SEC. 8. (a) Subject to application procedures provided by statute, the Governor, on conditions the Governor deems proper, may grant a reprieve, pardon, and commutation, after sentence, except in case of impeachment. The Governor shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and the reasons for granting it. The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.

(b) *No decision of the parole authority of this state with respect to the granting, denial, revocation, or suspension of parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days, during which the Governor may review the decision subject to procedures provided by statute. The Governor may only affirm, modify, or reverse the decision of the parole authority on the basis of the same factors which the parole authority is required to consider. The Governor shall report to the Legislature each parole decision affirmed, modified, or reversed, stating the pertinent facts and reasons for the action.*

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Document received by the CA 2nd District Court of Appeal.



## Argument in Favor of Proposition 89

Proposition 89 provides that no decision of the parole board releasing a convicted murderer shall become effective until it is first reviewed by the Governor. Under Proposition 89, the Governor, for the first time, will have the power to block the parole of convicted murderers.

Proposition 89 is based on a simple premise—namely, that the public has a right to be protected against the early release of murderers from state prison by having as much scrutiny and as many levels of examination as possible before a convicted murderer is paroled. Surely, everyone would agree that any decision to parole a convicted killer should be carefully scrutinized.

In 1983, Governor Deukmejian tried to block the parole of convicted rapist-murderer William Archie Fain. The court declared the Governor didn't have that authority and Fain was set free. Proposition 89 will correct the situation created by that court decision by expressly giving the Governor the power to block the early release of convicted murderers.

Proposition 89 is needed because current law does not protect the public. Consider the following:

- First-degree murderers who were paroled last year averaged less than 14 years in state prison.
- Between 1973 and 1986, 365 murderers who had been paroled were sent back to prison because they violated parole or committed another felony.
- In the next three years, over 500 convicted killers are due for parole hearings and possible release, including Hillside Strangler Kenneth Bianchi, mass murderer Juan Corona, Golden Dragon Massacre killer Peter Ng, Manson Family followers Tex Watson, Bobby Beausoliel, Leslie Van Houten and Patricia

Krenwinkle, as well as Robert Kennedy assassin Sirhan Sirhan.

We have already seen many tragic examples of the instances where a convicted killer has been paroled from prison only to commit further crimes.

For example, Robert Nicolaus was sentenced to death in 1964 for killing his three children. After his death sentence was overturned in 1967, he was subsequently paroled in 1977. In 1985 he murdered his former wife.

Robert L. Massie murdered a woman in a robbery in 1965 and was sentenced to death. His death sentence was overturned in 1972. He was paroled in 1978 and killed a store clerk in 1979.

In Sacramento County alone since 1978, there have been eight cases where a previously convicted murderer was paroled from prison only to murder again!

Murder is the most serious of crimes contemplated by our society. For this reason, the trial of a murder defendant is a difficult and closely monitored process. Even if the defendant is convicted, the Governor still has the power to grant reprieves, pardons and commutations. The procedural safeguards of the system are designed to protect defendants. The Governor can act on behalf of more lenient treatment of convicted criminals. We believe the state's top elected official should *also* be given the power to protect the public from the early release of still dangerous killers.

We urge a "Yes" vote on Proposition 89.

**DANIEL E. BOATWRIGHT**  
*State Senator, 7th District*

**GARY A. CONDIT**  
*Member of the Assembly, 27th District*

**IRA REINER**  
*Los Angeles County District Attorney*

## Rebuttal to Argument in Favor of Proposition 89

Proposition 89 will require the Governor to act within 30 days of the granting of a parole date or it will become final. He will not have any different information than his nine-member parole board would have had. It will simply allow him to grant or deny a parole date when it is politically expedient.

Proposition 89 would have made no difference in the William Fain Case. The Governor tried to block Fain's parole years after his parole date was granted by the Board of Prison Terms.

Under current law, a person convicted of first degree murder must serve a minimum of 17 and three quarters years of actual time in prison before parole. The Board of

Prison Terms guidelines call for much longer times

The law does not require that any parole date be set for a murderer. Public safety is the primary consideration of the parole board. The person has to be found suitable for parole. The Board of Prison Terms commissioners are prosecutors, sheriffs, police officers, and probation officers. They represent hundreds of years of experience in law enforcement. Their main job is to protect the public. If they give a parole date it is only when all doubt has been removed. Any question about the advisability of a parole date is cause for them to take it away. Proposition 89 will only politicize the parole process.

**REVEREND PAUL W. COMISKEY S.J.**  
*on behalf of the Prisoners Rights Union*

**Argument Against Proposition 89**

Proposition 89 in effect makes the Governor of the state another parole board with the same powers and the duty to apply the same rules. The only plausible reason for change is to give the Governor power to veto the parole board if the parole board makes a politically unpopular decision. Examples would be giving someone a parole date when large parts of the public did not approve or denying someone a parole date when it is politically unpopular to do so. The Board of Prison Terms is composed of a group of nine commissioners who are appointed by the Governor with the consent of the Senate. They apply a very technical set of rules when they make decisions about setting a parole date. They are trained and experienced and conduct hundreds of hearings each year for prisoners all over the state. They are former police officers, prosecuting attorneys, and probation officers. They grant a parole release date in about 2 percent of the hearings they conduct. Persons convicted of murder are only eligible to be released on parole after serving 10 years in prison and typical release dates are given for 20 years or more. A prisoner given a release date today will have gone before the parole board a number of times. All relevant facts are considered in great detail from the day the person is born to the day of the hearing. This means considering the person's family background, education, crimes, psychological and physical health, job history, prison behavior, and plans for the future. Parole release dates are only set after a person is found suitable

for parole. The actual release date is usually set for years away. If any information develops during those years that makes a parole date inadvisable, the parole board has full authority to take the date away. At the hearing to set a parole date the prisoner is present with his attorney, the district attorney from the county is there, and three parole board members conduct the hearing. If the three parole board members cannot agree on a decision they can refer the matter to the entire panel of nine members to make a decision. Most of the persons in prison now have not been found suitable for parole and it is likely that many never will be. The parole board is under no obligation to set a parole date if there is any risk to society. To require prisoners to go through the extremely rigid process they must go through to get a parole date and then leave the decision up to the whim of the Governor is to make a farce and mockery of justice and the rule of law. The parole board members are appointed by the Governor and paid a handsome salary. If they are not competent to make a decision, how can we expect the Governor who appointed them to do any better?

Proposition 89 will politicize decisions about whether to grant or deny parole. Unpopular persons will be denied parole dates because governors will sacrifice the interests of justice for votes. The criminal justice system will appear even more hypocritical than it is at present.

REVEREND PAUL W. COMISKEY S.J.  
*on behalf of the Prisoners Rights Union*

**Rebuttal to Argument Against Proposition 89**

Protecting public safety is a legitimate responsibility of the Governor and other elected officials. Proposition 89 will not politicize the parole process, but it will provide an extra measure of safety to law-abiding citizens by giving the Governor the authority to block the parole of criminals who still pose a significant threat to society.

Proposition 89 will help ensure that the rights of crime victims and their families are protected, and it represents a positive step in maintaining law and order in our state.

The opponents of Proposition 89 contend that the law would encourage more public outcry, but the evidence suggests otherwise. Since 1984, the Board of Prison Terms has been able to consider public views in connection with

their decisions to grant parole dates to prisoners. But in virtually every case there has been no significant degree of public outcry. In most instances, the families of the murder victims wish to put those tragic events behind them and have no desire to become involved in public campaigns associated with the murder of a loved one.

Proposition 89 will correct a weakness in the state's parole system and further strengthen California's system of justice.

**VOTE YES ON PROPOSITION 89.**

GEORGE DEUKMEJIAN  
*Governor*

DANIEL BOATWRIGHT  
*State Senator, 7th District*

**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL**

Case Name: **In re Leslie Van Houten**

No.:

**B320098**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On January 20, 2023, I electronically served the attached

**RETURN TO ORDER TO SHOW CAUSE;  
MEMORANDUM OF POINTS AND AUTHORITIES**

transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on January 20, 2023, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013-1230, addressed as follows:

Nancy L. Tetreault  
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**via TrueFiling**

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The Honorable Ronald S. Coen, Judge  
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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on January 20, 2023, at Los Angeles, California.

\_\_\_\_\_  
J. Murray  
Declarant

\_\_\_\_\_  
/s/ J. Murray  
Signature