

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Recommended Rescission of
the Parole Grant of
Douglas Balsewicz DHA Case No. 221009-052322

TRANSCRIPT OF PROCEEDINGS

VIDEO HEARING

August 18, 2022

PRESIDING

BRIAN HAYES
ADMINISTRATIVE LAW JUDGE

Sharon Stremcha Gulvik
OFFICIAL REPORTER

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the Parole Grant of
Douglas Balsewicz DHA Case No. 221009-052322

Pursuant to notice, this matter came on
for hearing on the 18th day of August, 2022, beginning
at 1:00 p.m.

PRESIDING
BRIAN HAYES
Administrative Law Judge

A P P E A R A N C E S

Douglas Balsewicz by:
Attorney Anthony Cotton, of
Kuchler & Cotton, SC;

Wisconsin Parole Commission by:
Attorney Karla Keckhaver,
Assistant Attorney General.

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P R O C E E D I N G S

JUDGE HAYES: My name is Brian Hayes.

I'm an Administrative Law Judge. I'm with the Division of Hearings and Appeals and physically I'm located in the fifth floor of the Hill Farms State Office Building on the near west side of Madison. Also I'd like to introduce Sharon Stremcha Gulvik who is the court reporter and for the folks that are not attorneys, what that means is that she'll take a record and one of the things that we'll do here is that she will...her skill, her craft is to take all of our words and put them on paper and to take the documents to build a complete record.

Okay. So, it may be at some point in time, counsel may ask, can you have that read back to me? She will then. We'll take a quick break and she can read that back so she will be the official record.

As I've often said in these things to my judges is--

VOICE: I'm sorry. We still have people that are trying to join. We need seven in here total.

JUDGE HAYES: I'm not going to delay anymore.

VOICE: Okay. Hold on, Kathy. Hold on.

VOICE: Oh, where do I see that? Oh,

1 it's this one here. Okay.

2 JUDGE HAYES: Okay. All right. So

3 we're taking...the most important person in the room

4 isn't in the room. It is the person that reads the

5 record. So many times, as I've conducted hearings,

6 somebody will tell me they were this far apart and I

7 have to stop and say that's about a foot and one half.

8 It's I have to interpret physical hand motions with

9 what that may mean.

10 The purpose of this proceeding is to

11 provide due process for Mr. Douglas Balsewicz. Okay.

12 VOICE: Hold on. Just a minute.

13 JUDGE HAYES: Okay. I'll do this first

14 before I...I would ask anyone here who is a victim, can

15 you please mute your screen.

16 All right.

17 VOICE: How come I only see Mike and

18 Kathy?

19 VOICE: I'm here.

20 VOICE: I only see Mike and Kathy on

21 mine.

22 VOICE: I'm here, Karen.

23 VOICE: I can't see anybody but Mike and

24 Kathy though.

25 VOICE: You know, I have you and a mixed

1 screen on mine and then Kathleen and myself.

2 VOICE: Yeah, so you just see those.

3 VOICE: I just went back to my BlueJeans
4 and got right back on. So, it's the same thing. You
5 just have to get out and get back on it.

6 VOICE: Yeah, that's what I--

7 JUDGE HAYES: Can I ask you folks to
8 please mute. We're in the middle of a proceeding here.

9 VOICE: Can you hear?

10 JUDGE HAYES: Now you'll each have a
11 chance to speak when I tell you to, please.

12 All right. Thank you.

13 The purpose of this proceeding is to
14 provide due process for Mr. Balsewicz.

15 The counsel here, we had a prehearing on
16 July 11th, 2022. We talked about scheduling. We
17 talked about kind of what would happen with what some
18 of the concerns were. No evidence was presented at
19 that prehearing.

20 This is a closed hearing pursuant to
21 Wisconsin Statute 19.85(1)(d). That's the Open
22 Meetings Law. This is an exemption. This kind of a
23 hearing is an exemption to the Wisconsin Open Meetings
24 Law and then there is also a right to privacy.

25 (Multiple voices speaking at the same time)

1 VOICE: Can you see me, Mike?

2 ATTORNEY COTTON: I can't hear you with

3 all these people talking. I'm sorry, Judge.

4 JUDGE HAYES: Yeah, we may have to boot

5 them off if they can't mute. We'll have to just take

6 written statements.

7 VOICE: Do what?

8 JUDGE HAYES: We will take written

9 statements if these people can't mute--

10 ATTORNEY KECKHAVER: Administrator

11 Hayes, maybe if we can ask them to...they perhaps don't

12 know how to mute on this platform.

13 JUDGE HAYES: All right.

14 ATTORNEY KECKHAVER: You know, if you

15 just touch your screen, for those of you who aren't

16 muted, if you touch your screen. A little microphone

17 will come up.

18 JUDGE HAYES: You go up at the top,

19 there is like four buttons and the middle button is the

20 mute and you need to press that. That will help.

21 This way we don't hear dogs barking, phones ringing,

22 things like that and it gives Sharon a headache here.

23 It's good.

24 All right.

25 VOICE: Can you hear me now?

1 JUDGE HAYES: The point is not to hear
2 you, sir.

3 VOICE: There is no...wait.

4 JUDGE HAYES: This is a closed hearing,
5 as I said. There is also accompanied with this under
6 the Wisconsin Constitution for Appearances by Victims,
7 there is a right to privacy. So I would ask that you
8 consider that and not record this. There will be a
9 recording. There will be a record made.

10 And I guess at this point, I'd like to
11 introduce the parties and start with the Parole
12 Commission. Ms. Keckhaver, if you can explain who you
13 are.

14 ATTORNEY KECKHAVER: Yes. Thank you,
15 Administrator Hayes. My name is Assistant Attorney
16 General Karla Keckhaver and I'm here on behalf of the
17 Wisconsin Parole Commission.

18 JUDGE HAYES: Mr. Cotton.

19 ATTORNEY COTTON: Yes. I'm Attorney
20 Anthony Cotton. I represent Doug Balsewicz.

21 Thank you.

22 JUDGE HAYES: Who is also here, for the
23 record.

24 Mr. Cotton, where is Mr. Balsewicz
25 appearing from?

1 ATTORNEY COTTON: He's appearing from
2 the prison today. Dodge, going from memory here--

3 (Interruption in internet connection)

4 COURT REPORTER: I can't hear him.

5 ATTORNEY COTTON: New Lisbon--

6 (Interruption in internet connection)

7 COURT REPORTER: Can he repeat that? I
8 can't understand him. I'm sorry.

9 ATTORNEY COTTON: I can pull up my
10 records and see where he is. Oakhill, maybe.

11 JUDGE HAYES: Fox Lake or Oakhill?

12 ATTORNEY COTTON: Oakhill. He's nodding
13 yes to Oakhill.

14 JUDGE HAYES: Okay. All right. Scott,
15 if you could, just project yourself and I'll ask Sharon
16 to come closer.

17 If I could. What I need to do, I've got
18 several victims on here and if Diane, if you
19 could...I'm going to, what I want to do is to write
20 their names down and then in order that they'd like to
21 speak at the end after the evidentiary portion. Okay.

22 VOICE: Okay. Thank you. I would like
23 to say again the victims were sent the wrong link and
24 so not all of them have had the opportunity to get
25 signed in and participate yet.

1 JUDGE HAYES: Okay.

2 VOICE: I was in a room with seven

3 people who were all sent the wrong link so I--

4 JUDGE HAYES: Okay.

5 VOICE: So I think we need to afford

6 them some grace if they're getting muted and getting

7 established because they were all sitting in another

8 room because DOA sent them the wrong link. So, I would

9 like to afford them the opportunity to join us.

10 JUDGE HAYES: Okay.

11 VOICE: Considering this hearing is

12 taking place because we're trying to gain victim input.

13 JUDGE HAYES: Okay.

14 VOICE: So I would like to make sure

15 that everybody can get in to the room.

16 JUDGE HAYES: Okay.

17 We're moving forward, Ms. Lewis. I will

18 take any written statement.

19 Who would you like to introduce to speak

20 at the end of the evidentiary portion?

21 VOICE: I would defer to the family.

22 JUDGE HAYES: Okay. All right. We'll

23 hear--

24 VOICE: Kim, are you on?

25 JUDGE HAYES: All right. Here's what

1 we'll do. We'll take the names after the evidentiary
2 portion. We'll move then.

3 VOICE: The only people I see is Mike
4 and Kathy.

5 JUDGE HAYES: The--

6 VOICE: It is ridiculous.

7 (Multiple voices speaking at the same time)

8 VOICE: Kim, are you there?

9 VOICE: Yes, I'm here.

10 VOICE: Can you see me?

11 VOICE: I don't.

12 VOICE: No.

13 VOICE: Is it in your Apps?

14 VOICE: You don't see me?

15 VOICE: No.

16 VOICE: What about now?

17 VOICE: No.

18 VOICE: Can Kathy go back to your
19 original one?

20 JUDGE HAYES: Can everyone. Can anyone
21 who can hear me. If anyone can hear me, please mute
22 yourself. I want everyone muted at this point. I want
23 everyone up at the top, one of the four buttons to,
24 where it says microphone, it says mute audio. Press
25 that. Put your cursor on that and press mute audio,

1 please. So we don't hear phone calls. We don't hear
2 dogs barking. Please.
3 Okay. Can you still hear me?
4 VOICE: Is it better for Mike to go on
5 his phone and do it?
6 JUDGE HAYES: Ms. Kannenberg, can you
7 mute your screen, please.
8 VOICE: Can I what?
9 JUDGE HAYES: Can you mute your screen,
10 please.
11 VOICE: Can I mute it? I did mute it.
12 JUDGE HAYES: There is a button at the
13 top.
14 VOICE: I do have it muted, actually.
15 JUDGE HAYES: It doesn't appear that on
16 the screen. I can't mute you from here.
17 VOICE: Can you still hear me?
18 JUDGE HAYES: Yes, I can still hear you.
19 VOICE: Yeah, mine says that I'm muted.
20 JUDGE HAYES: All right. I'm going to
21 move forward.
22 I'm going to ask you not to talk on your
23 phone.
24 As I mentioned, the purpose of this
25 hearing is a parole rescission hearing for Mr. Douglas

1 Balsewicz. This is the authority that holds this
2 hearing that is found in the Parole Commission Rules
3 1.07(7). I'm going to read it a little bit because
4 it's a little different than anything else that we do
5 here.

6 If there is a change in circumstances,
7 requiring a denial of the grant or order, subsequent to
8 the issuance of a parole grant or release to extended
9 supervision order but prior to release, the inmate
10 shall be provided written notice of the reasons for
11 rescission.

12 I'll go forward. The inmate shall be
13 given an opportunity to appear and be heard by an
14 impartial hearing examiner from the Division of
15 Hearings and Appeals in the Department of
16 Administration. I am an Administrative Law Judge for
17 the Division of Hearings and Appeals. I am the hearing
18 examiner.

19 At the hearing the inmate shall be given
20 the right to present witnesses and evidence which are
21 material, relevant and not unduly repetitious, the
22 right to confront and cross-examine witnesses against
23 the inmate, the right to receive a written statement of
24 the evidence relied upon, and the right to be
25 represented by counsel.

1 After a review of the findings of fact,
2 conclusions of law, and recommendations of the hearing
3 examiner...that's me...the Chairperson shall make a
4 final decision.

5 So let me draw from that, is that I will
6 make a proposed decision and send it to the Parole
7 Commission. I don't make the final decision.

8 Okay. Mr. Balsewicz has certain legal
9 rights contained in here. To the attorneys it's not,
10 these aren't in HA 2. HA 2 is for revocations that
11 this Division conducts or many more people are familiar
12 with. We don't do many parole rescissions. We don't
13 do even fewer anymore since parole was eliminated in
14 January 1st, 2000.

15 But in any case, those are the...what
16 also that means is that the standard here is a change
17 in circumstances. That's what the law says. So it's
18 an uncommon standard. It's something you see in, oh,
19 child support and that kind of thing. So it's
20 something that both parties will have to keep in their
21 mind. One has. That's the burden that one has to
22 meet.

23 We have, as I mentioned, we had a
24 prehearing on July 11th. At that time, I sent out a
25 scheduling notice and asked that evidence be offered

1 and witnesses, a list of witnesses be offered before
2 last Friday. And, the Parole Commission complied. I
3 got nothing from you, Mr. Cotton.

4 ATTORNEY COTTON: Yes, we told Ms.
5 Keckhaver that we have Mr. Tate under subpoena. She
6 accepted service on his behalf, Your Honor.

7 JUDGE HAYES: Okay. But you did get
8 what was distributed on Friday, correct?

9 ATTORNEY COTTON: Yes, yes.

10 JUDGE HAYES: Okay. And to my review,
11 there were, Ms. Keckhaver went ahead and labeled 17
12 exhibits.

13 Have you had a chance to review those,
14 Mr. Cotton?

15 ATTORNEY COTTON: I have.

16 JUDGE HAYES: Okay. Any objections to
17 any of the 17?

18 ATTORNEY COTTON: No.

19 JUDGE HAYES: Okay. I'm just, without
20 having to crawl through them, I'll just enter them as 1
21 through 17.

22 (Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
23 13, 14, 15, 16 and 17 received into evidence.)

24 JUDGE HAYES: At this point, as I
25 mentioned in our prehearing, we talked about, because

1 of the quick nature of these, that we would move...I
2 would not require post hearing briefs. I will allow
3 opening statements and closing statements.

4 And, at this point, I told the parties
5 at that day that the Parole Commission will go first.
6 All the documents are in their control.

7 And, at this point, Ms. Keckhaver, if
8 you would like to start your opening statement.

9 ATTORNEY KECKHAVER: Thank you, Judge
10 Hayes.

11 On April 27, the then Chair of the
12 Wisconsin Parole Commission, John Tate, granted parole
13 to Mr. Doug Balsewicz effective May 17, 2022.

14 Before Mr. Balsewicz was released to the
15 community, Chairman Tate rescinded Mr. Balsewicz'
16 parole grant as contemplated by Wisconsin
17 Administrative Code PAC Section 1.07(7). That Code
18 provision, as Administrator Hayes noted, states that
19 parole can be rescinded when there is a, quote, change
20 in circumstances requiring denial of the grant.

21 The evidence that the Commission
22 presents today will show that there was a Commission
23 change of circumstances here to warrant rescission of
24 Mr. Balsewicz' grant.

25 The Commission has to call two witnesses

1 today. First, you will hear from former Chair John
2 Tate who will testify about his reasons for his
3 decision to rescind Mr. Balsewicz' parole.

4 In particular, he will testify that he
5 learned that the victim's daughter who was a minor and
6 in the home at the time of the crime had not been
7 notified of Mr. Balsewicz' upcoming parole review and
8 her right to submit a Victim Impact Statement and
9 attend the hearing. And, that she was not notified
10 because she had not enrolled with the Department of
11 Corrections Office of Victims Services and Programs.
12 And, that she had not been notified of the need to
13 enroll which is the responsibility of local Victim
14 Witness Service providers at the time of the crime
15 because she was indeed a minor to the crime and there
16 is no process for automatically notifying minor victims
17 once they become adults.

18 Mr. Tate will explain how and when he
19 learned about this notice problem. In particular,
20 we'll talk about victims, how victims reached out to
21 his office to the Department of Corrections and to the
22 Governor's office expressing their unhappiness with the
23 decision and also raising notice problems. He will
24 also testify about a letter that he received from the
25 Governor and the subsequent conversations he had with

1 DOC and the Governor's staff verifying this notice
2 problem.

3 Our second witness will be Elizabeth
4 Lucas who is the Director of the Department of
5 Corrections Office of Victim Services and Programs.
6 She'll provide background on the victim participation
7 in the parole process and also on the notification and
8 enrollment process of the victim. She'll also testify
9 about her office's involvement with this case. In
10 particular, which victims were enrolled with her office
11 when the parole...prior to the program, that the
12 victim's daughter was not enrolled at the time and was
13 not sent notice of her right to provide a victim
14 statement and attend the hearing. And, that the
15 victim's daughter reached out to the Department of
16 Corrections after the parole grant.

17 She'll also discuss her...how she
18 verified whether the victim's daughter was indeed
19 enrolled.

20 The evidence presented by these
21 witnesses will show that while the victims and others
22 were unhappy with the decision to grant parole, there
23 was also a serious notice problem. The victim's
24 daughter was not notified of her right to submit the
25 victim statement and attend the hearing and that

1 Chairman Tate determined that this was a sufficient
2 change in the circumstances under the Code provision to
3 warrant rescission of the grant.

4 JUDGE HAYES: Thank you.

5 Mr. Cotton, your opening.

6 ATTORNEY COTTON: Thank you, Judge.

7 What I think you'll hear today from
8 Chairperson Tate--

9 (Interruption in internet connection)

10 COURT REPORTER: I can't hear him. He
11 has to speak up. Can he please speak up?

12 JUDGE HAYES: Can you speak up, Tony,
13 please.

14 COURT REPORTER: Speak in to the
15 microphone.

16 ATTORNEY COTTON: That there is a
17 lengthy process that goes in to the decision behind
18 whether or not to grant parole.

19 What I think the record will show is
20 that Mr. Balsewicz has been a model inmate for over two
21 decades in the prison system. That he's completed all
22 programing required of him and that the Parole
23 Commission followed the law. The Statutes entirely.
24 When the Commission concluded ultimately on the fifth
25 time around, that Mr. Balsewicz was entitled to be

1 released on parole.

2 There is a long process that goes in to
3 it. He sufficiently followed the law. It made a
4 decision to recommend parole after a release plan had
5 been developed by the Department of Corrections.

6 In each step of the way, Judge, when the
7 Commission is looking at Mr. Balsewicz as an
8 individual, they're looking at whether he served enough
9 time, how his institutional conduct has been, how his
10 program participation has been, whether release would
11 present a risk to the public, that's considered in
12 every step of the way, and whether he served sufficient
13 time as punishment for the crime.

14 And you're going to hear the victims
15 have opposed to his release from day one. They've
16 continued to oppose it. They're all here today. They
17 continue opposing his release.

18 There has been absolutely no change in
19 circumstances. After parole was granted by the
20 Commission...Mr. Balsewicz...that is what the Statute
21 is designed to look at. Specifically, whether there is
22 something that occurs that would require the grant to
23 parole be rescinded. Absolutely nobody requires it
24 here because there has been no change. The victim's
25 family has always opposed release from day one. They

1 continue to do so today.

2 Mr. Balsewicz has went through five
3 Parole Commission hearings, being given ultimately
4 parole.

5 Chairperson Tate will testify that he
6 approved that release, that he followed the law and
7 that once release was permitted it was only then that
8 the victim's family launched a public relations
9 campaign showing up at the capitol, speaking to the
10 Governor's office, influencing the Governor, causing
11 the Governor to write a letter to Mr. Tate to then
12 resign.

13 This is nothing, nothing but pure
14 political pressure that was put up to the Governor
15 months leading up to a November election to put
16 pressure on his office to change a decision that
17 Chairperson Tate in his good judgment decided was
18 appropriate.

19 There is going to be very little factual
20 dispute, I suspect today, in terms of who was provided
21 notice but that is not...whether she was provided
22 notice or not didn't change any of the circumstances
23 that we're dealing with here where you have the
24 victim's family opposing release from day one and
25 continuing to this day and Mr. Balsewicz having done

1 nothing on his end to interrupt his release.

2 Thank you.

3 JUDGE HAYES: All right.

4 At this point, Ms. Keckhaver, we have
5 your opening statement, we have your 17 exhibits and I
6 think we're ready to start with your witnesses. Who
7 would you like to call first?

8 ATTORNEY KECKHAVER: Thank you. The
9 Commission calls John Tate, II.

10 JUDGE HAYES: Mr. Tate, okay, I see your
11 video is on. There you are. Can you hear me, sir?

12 MR. TATE: I can.

13 JUDGE HAYES: Okay. Can you please
14 raise your right hand.

15 JOHN TATE, II,
16 called as a witness,
17 having been first duly sworn,
18 testified as follows:

19 JUDGE HAYES: Okay.
20 What is your name, sir?

21 THE WITNESS: John Tate, II.

22 JUDGE HAYES: Thank you. And again,
23 what's your position, sir?

24 MR. TATE: Right now, I'm the President
25 of the City of Racine Council, and the former Chair of

1 the Parole Commission.

2 JUDGE HAYES: A great city in Wisconsin.

3 Thank you.

4 All right. Go ahead, Ms. Keckhaver,
5 with your direct.

6 ATTORNEY KECKHAVER: Thank you.

7 DIRECT EXAMINATION BY ATTORNEY KECKHAVER:

8 Q Mr. Tate, you mentioned you were the former Chair of
9 the Wisconsin Parole Commission. When did you start
10 that job?

11 A June 3rd, 2019.

12 Q And when did you leave that job?

13 A June 10, 2022.

14 Q Were you appointed by the Governor?

15 A I was.

16 Q Does your position require confirmation by the
17 legislature?

18 A It does.

19 Q And were you confirmed?

20 A I was not.

21 Q Could you just briefly explain your duties as the Chair
22 of the Parole Commission.

23 A My responsibilities as the Chair of the Parole
24 Commission is to oversee all the facilities, the court
25 reporting intake, all the operations of the Parole

1 Commission including the administration of staff,
2 hiring, evaluation of staff, response to co-respondents
3 and the final decision maker of all parole--

4 COURT REPORTER: Parole what?

5 JUDGE HAYES: Can you say that again,
6 sir? Final decision maker of what?

7 THE WITNESS: Parole recommendations.

8 COURT REPORTER: Okay. I'm sorry.

9 Thank you.

10 Q (By Attorney Keckhaver) Could you explain what, if
11 any, connection the Parole Commission has to the
12 Department of Corrections?

13 A The Parole Commission shares the administrative
14 resources, the HR, Human Resources, the actual building
15 itself, technological and the physical resources and
16 assets that the Commission itself does not have these.
17 The Commission is eight people. So, it does not have
18 the staff to fully administer all the assets that are
19 necessary pieces of a division of the State of
20 Wisconsin. So, it shares those with the Department of
21 Corrections.

22 Q Could you briefly describe the process for obtaining
23 parole.

24 A A person must first be eligible for parole which means
25 that they're convicted of an offense that occurred

1 before June 1st, 2020, or excuse me, the year 2000.

2 Then upon becoming parole eligible, they
3 are interviewed by a Parole Commissioner and after that
4 Commissioner has reviewed the information within their
5 institutional record. Those that are commissioned
6 include--

7 VOICE: I can't hear.

8 VOICE: I can't hear anything.

9 VOICE: Judge, can you hear me now?

10 JUDGE HAYES: I'm going to ask you to
11 mute yourself again or try.

12 VOICE: Where's the meeting?

13 JUDGE HAYES: We've got new people
14 coming in. Excuse me. One moment.

15 VOICE: I can't hear.

16 VOICE: Michael can't hear.

17 VOICE: Neither can Mike.

18 VOICE: I can't hear anything.

19 (Multiple voices speaking at the same time)

20 JUDGE HAYES: I am telling you again to
21 mute. There should be three people that are speaking
22 here. Mr. Tate has generously given his time.

23 VOICE: I must be on my computer here
24 but I'm not seeing anybody. This is a joke.

25 (Multiple voices speaking at the same time)

1 JUDGE HAYES: If you'd like to leave, I
2 can take written statements.

3 VOICE: Put your cursor here.

4 Kathy is gone now.

5 (Multiple voices speaking at the same time)

6 ATTORNEY COTTON: All I could hear is
7 somebody calling this a joke. I could not hear you,
8 Judge. I'm sorry.

9 JUDGE HAYES: All right.

10 ATTORNEY KECKHAVER: Administrator
11 Hayes, is there any way for the meeting organizer to
12 mute people? I know on Zoom there is a possibility for
13 that.

14 JUDGE HAYES: Yeah, it's--

15 (Multiple voices speaking at the same time)

16 JUDGE HAYES: I am hearing you but I
17 would like you to be quiet, please.

18 Go ahead, Karla. We're getting a record
19 here right now.

20 Q (By Attorney Keckhaver) Mr. Tate, you mentioned, you
21 were describing the process for obtaining parole and
22 you indicated that to become eligible for parole and
23 then that you've got a Commissioner who interviews the
24 inmate and makes the recommendation and if you could
25 just go on from there about briefly describing the

1 process for parole.

2 A The Commissioner will review the entire--

3 COURT REPORTER: I can't hear him. He
4 needs to speak up. I'm really sorry. Can you speak
5 up, sir. I'm sorry.

6 JUDGE HAYES: Go ahead, Mr. Tate.
7 Repeat that.

8 A Thank you. Which may include sentencing transcripts,
9 pre-sentence investigation, things that have occurred
10 and documentation from the time of the event and the
11 Commission...as well any documentation that would have
12 been generated from the day of incarceration up to the
13 day of the parole hearing.

14 After reviewing that information, the
15 Commissioner will then conduct the hearing when they
16 will interview the person in custody, and kind of judge
17 the codes, that information, and versus where they are
18 today. Victims have a right to participate in those
19 hearings so they may offer feedback, whether verbal or
20 written.

21 And after that hearing, the Commissioner
22 will evaluate where that person is and make a
23 determination as to whether they have earned parole, at
24 that point, and have reduced their risk satisfactorily
25 to return to the community or not.

1 And if they have not demonstrated that,
2 they will deny parole and then recommend a period of
3 time for deferral before the next deferral hearing.

4 Or if they have satisfied those
5 criteria, they will recommend parole which will be then
6 forwarded to the Chair for determination of final
7 decision, disposition.

8 Q Is the decision to grant or deny parole discretionary
9 on the part of the Parole Chair?

10 A It is.

11 Q Is it guided by any legal standard?

12 A The State Statute, Parole Administrative Code.

13 Q If an inmate is granted parole, is he or she released
14 immediately?

15 A No.

16 Q Is there a delay between the grant and the release?

17 A Yes.

18 Q Why is that?

19 A For multiple reasons. One of which is to satisfy
20 statutory criteria such as notification of victims. If
21 parole is granted, there is a memo of seven days that
22 has to be...that notice has to be provided to victims
23 prior to release. So, at least seven days have to
24 transpire for that.

25 And then also as a matter of

1 administration and cooperation between the Commission
2 and the Department of Corrections, 30 days are allowed
3 from the date. I mean, generally, 30 days are allowed
4 from the date of grant to effective for institution
5 resources to be organized for the Department of
6 Community Corrections to get their ducks in a row and
7 to satisfy any documentation that they're supposed to
8 transmit between the Division of Community Corrections
9 and the Division of Adult Institution. So that is
10 allowed for all of that to occur.

11 And then in certain cases, if a person
12 has a special bulletin notice, a minimum of 90 days is
13 required to allow for that to proceed to be satisfied.

14 Q You testified (Interruption in internet connection) are
15 entitled to participate in the parole process. How are
16 they entitled to participate?

17 A They can provide a statement, whether written or
18 verbal, as to their position on the eligibility
19 offering of parole.

20 Q And are they entitled to attend parole hearings?

21 A Attendance is more or less to the discretion of the
22 Commissioner who is conducting the hearing but they
23 have a right to submit. They have a right to make a
24 statement on the status of parole.

25 Q Are they entitled to notice of the upcoming hearing?

1 A Yes.

2 Q And notice of parole decision?

3 A Yes.

4 Q Do you consider victim statements in when deciding
5 whether to release on parole?

6 A All information, yes, that's received is considered in
7 the final recommendation from Commissioners. So,
8 victim statements are so they will be considered. The
9 weight thereof would vary as it relates to other
10 factors that are considered.

11 Q You mentioned that victims are notified of upcoming
12 parole hearings. Who sends that notice of hearing?

13 A That is usually through the Office of Victim Services.

14 Q And that's a Department of Corrections Office?

15 A Yes.

16 Q And you also mentioned the victims are notified of
17 parole decisions. Who sends the notice of parole
18 decisions?

19 A The Parole Commission.

20 Q How do you know who to send the notice to?

21 A Based on who is registered in the Office of Victim
22 Services as well as several other databases that exist
23 which Parole Commission staff will often cross
24 reference with the Divisions of DOC who administer
25 those which is the Department of Community Corrections

1 or Office of Victim Services. So there is NOTIS which
2 is spelled N-O-T-I-S which is a database that keeps
3 track of what victims are registered or associated with
4 a particular case and there are also several other
5 systems. Some of which indicate who wants notice.
6 Some of which simply indicate who was involved in the
7 case. So, staff, a Parole Commission staff will reach
8 out to various agencies at the time to determine if
9 there is someone who requires notice at that time.

10 Q Who keeps track of the victims enrollment?
11 A The Office of Victim Ser...well, DOC. Yes, not the
12 Parole Commission itself.

13 Q You granted parole for Doug Balsewicz in April of 2022.
14 Correct?
15 A Yes.

16 Q Okay. I'm going to have Administrator Hayes put
17 Exhibit 1 up on the screen share if possible.

18 JUDGE HAYES: Hold on. Let me...

19 ATTORNEY KECKHAVER: And if it's
20 difficult to do the share screen, I have provided all
21 the exhibits to both witnesses and all the parties and
22 I believe they have them acceptable so we can testify
23 to them that way as well, and they're all numbered.

24 JUDGE HAYES: I've got them here. I've
25 just got to...I didn't...

1 (Multiple voices speaking at the same time)

2 JUDGE HAYES: Can you see that, Karla?

3 ATTORNEY KECKHAVER: Yes, I can.

4 JUDGE HAYES: Okay.

5 Q (By Attorney Keckhaver) Mr. Tate, can you see the

6 exhibit?

7 A I can. I also have it on line so I can read that

8 better.

9 Q Thank you.

10 Could you please tell us what that is.

11 A That's the Parole Commission Action which is the

12 determination of the outcome of the parole hearing for

13 Mr. Balsewicz.

14 Q And what was the date of the hearing for that?

15 A The final decision or the recommendation?

16 Q Sorry. The date of the interview.

17 A The interview occurred on April 15th of 2022.

18 Q And then did one of your Commissioners make a

19 recommendation based on that interview?

20 A Commissioner Jennifer Kramer made a recommendation,

21 yes.

22 Q And did you accept that recommendation?

23 A As of April 27th, I did affirm the recommendation.

24 Q And you granted parole to Mr. Balsewicz?

25 A Yes, effective May 17, 2022.

1 Q Are your reasons for granting parole set forth in the
2 decision?
3 A They are.
4 Q Did you consider victim statements in making your
5 decision?
6 A To the extent the Commissioner did and they were
7 available, yes.
8 Q So you only considered victim statements that were on
9 file at the time?
10 A Yes. It would not be possible to consider statements
11 that are not on file.
12 Q And Mr. Balsewicz was not released immediately upon the
13 grant of parole; is that correct?
14 A No, the effective date for the grant would have been
15 May 17 plus--(Interruption in internet connection)
16 COURT REPORTER: Plus what?
17 Q I'm sorry. I didn't catch the last part.
18 A Plus 30 days.
19 Q And does that indicate that's the end of your decision
20 there?
21 A It is.
22 Q Was Mr. Balsewicz released on May 17, 2022?
23 A No, he was not.
24 Q Why is that?
25 A Because his grant was placed on hold and then

1 subsequently rescinded.

2 Q What does it mean to rescind a parole grant?

3 A That to nullify the decision that actually offered the

4 grant.

5 Q I'm showing you what's been marked as Exhibit 2.

6 JUDGE HAYES: Hold on.

7 (Multiple voices speaking at the same time)

8 JUDGE HAYES: Okay. Is this what you

9 wanted, Karla?

10 ATTORNEY KECKHAVER: Yes.

11 JUDGE HAYES: Exhibit 2.

12 Q (By Attorney Keckhaver) That's great. Thank you.

13 Mr. Tate, can you tell us what that is.

14 A That's a notice of rescission to the Warden...to the

15 care of the Warden of his institution at the time.

16 Q Please go to page 2 of that exhibit, please. Can you

17 tell me what that is.

18 A That is a rescission decision and rational behind it as

19 well as a statement of hearing rights.

20 Q And your reasons for rescinding Mr. Balsewicz' parole

21 are set forth in that decision?

22 A They are.

23 Q Could you briefly explain why you rescinded Mr.

24 Balsewicz' grant.

25 A Well, yes.

1 Following approval, it was brought to my
2 attention that the victims are...really one victim in
3 particular had not been offered the right or offered
4 the ability to express their right or exercise their
5 right to participate in the parole process and they
6 were not allowed to participate in that process as a
7 result of really administrative gaps because they were
8 a minor at the time of most peoples' registration who
9 would have been associated with the case.

10 That victim was the victim's daughter as
11 well as the offender's daughter and because this
12 individual was not allowed to participate because of
13 the effective gaps that exist within the registration
14 process, I determined as Chair that because they have a
15 statutory right, Constitutional right that to
16 participate and because their nonparticipation was not
17 because they chose not to but because they were not
18 made aware proactively by the administration that you
19 know that governs these Statutes.

20 That that was sufficient circumstances
21 to rescind the grant. Provide ample opportunity for
22 this person to engage in the process of registration,
23 provide feedback and then re-evaluate Mr. Balsewicz'
24 eligibility and the satisfaction of parole criteria
25 after that opportunity was at least provided, if not

1 that feedback was received.

2 Q Thank you. And was it your belief that that notice
3 problem constituted a change in circumstances under the
4 Administrative Code?

5 A Yes.

6 Q If this rescission decision is affirmed by the Parole
7 Commission, will Mr. Balsewicz be eligible for parole
8 again?

9 A Yes.

10 Q When will that be?

11 A The next eligibility date was set for March 2023 which
12 means his next hearing would be in January 2023.

13 Q And is it your understanding that enrolled victims will
14 receive notice of that hearing?

15 A Yes.

16 Q And that they'll have an opportunity to provide victim
17 statements and attend the hearing if possible?

18 A Yes.

19 Q Stepping back a little bit. After you granted Mr.
20 Balsewicz' parole, did victims express concerns about
21 the decision?

22 A Yes.

23 Q Did they contact your office?

24 A Yes.

25 Q To your knowledge, did they contact the Department of

1 Corrections?

2 A Yes, yes.

3 Q And to your knowledge, did they contact the Governor's
4 office?

5 A To my knowledge, yes.

6 Q When they contacted your office, were they unhappy with
7 the decision to grant parole?

8 A Yes.

9 Q Did they also have other concerns?

10 A The initial concern was that they hadn't received
11 notice but they were expressing concern with not
12 receiving notice roughly a week after the decision had
13 been made. So, that would have been prior to the
14 process of actually sending the notice which you know
15 communicated internally with Office Victim Services and
16 others to try and serve the notice and to get it out in
17 a timely fashion. They're not just temporary, those
18 expectations, and deal with the initial frustration of
19 decision making that was made was not satisfactory.

20 Q All right. I'd like to show you Exhibit 3 now.

21 A Are you pulling up Exhibit 3?

22 JUDGE HAYES: Can you see it?

23 Q Could you tell me what this is, Mr. Tate.

24 A It is a letter from Governor Evers office to myself.

25 Q When did you receive this letter?

1 A May 13th.

2 Q And that was before you rescinded Mr. Balsewicz' parole
3 grant?

4 A Yes.

5 Q What was your understanding of the Governor's concerns
6 in this letter?

7 A That Mr. Balsewicz should not be released as was
8 ordered and that there were concerns with notification
9 for victims.

10 Q Did you have conversations with the Governor himself
11 about this case before or after receiving this letter?

12 A No.

13 Q Did you have conversations with his staff?

14 A Yes.

15 Q And did his staff ask you to rescind the parole grant?

16 A The staff informed me that I was...the Governor was
17 going to ask for me to rescind the parole grant.

18 Q And was staff also concerned about notice issues?

19 A To the extent that the Governor was, yes.

20 Q You testified that you rescinded parole because the
21 victim's daughter hadn't received notice. How did you
22 learn about that notice issue?

23 A I learned of that that specific victim had never
24 received notice in subsequent conversations with the
25 Governor's staff.

1 Q So that was after you had granted parole to Mr.
2 Balsewicz?
3 A Yes.
4 Q And was it after you received this letter?
5 A Yes.
6 Q Was it your understanding that the victim's daughter
7 wanted to provide input into the parole decision?
8 A Yes.
9 Q How did you learn that?
10 A Both by inference from the letter as well as his
11 subsequent conversations with the Governor's staff.
12 Q Did you verify this information with the Department of
13 Corrections Office of Victim Services?
14 A Yes.
15 Q And was it your belief that this notice problem
16 constituted a change of circumstances warranting
17 rescission?
18 A Yes.
19 Q Would you have rescinded parole, based solely on the
20 Governor's disagreement with your decision to grant
21 parole?
22 A No, no.
23 Q Based solely on the victim's family disagreement with
24 the decision to grant parole?
25 A No.

1 ATTORNEY KECKHAVER: All right. Thank
2 you. That's all I have. Thank you.
3 JUDGE HAYES: That ends your direct, Ms.
4 Keckhaver?
5 ATTORNEY KECKHAVER: Yes.
6 JUDGE HAYES: Mr. Cotton, do you have
7 any cross-examination for Mr. Tate?
8 ATTORNEY COTTON: Yes. Can you hear me
9 okay, Mr. Tate?
10 THE WITNESS: (Nods head affirmatively)
11 ATTORNEY COTTON: Good afternoon.
12 JUDGE HAYES: Mr. Cotton, are you going
13 to need any of the exhibits?
14 ATTORNEY COTTON: I'll let you know if I
15 do. I don't think, I don't think I will.
16 JUDGE HAYES: Okay.
17 CROSS-EXAMINATION BY ATTORNEY COTTON:
18 Q Mr. Tate, I just want to ask you some questions about
19 this process. So when exactly were you appointed as
20 Chairperson? What was the date again?
21 A June 3rd, 2019.
22 Q Okay. So and you've now resigned. Right?
23 A I have.
24 Q What day did you resign?
25 A June 10th, 2022.

1 Q Okay. So you were the Chairperson throughout that
2 whole time then. Right?
3 A Yes, I was.
4 Q And you said that you were appointed by the Governor
5 but did I hear you, the legislature didn't confirm you
6 or something?
7 A That's correct.
8 Q So does that just mean you are the acting Chairperson?
9 Is that how that gets you in?
10 A Yes.
11 Q Okay. So you have the authority of the Chairperson but
12 without the legislature having ruled on it. Is that
13 how it works?
14 A Yes.
15 Q And I just want to understand how the parole process
16 works so we have a clear record on it. Okay?
17 A Sure.
18 Q So when we refer to a Parole Commission, it's really a
19 group of people, one of whom gets assigned to an inmate
20 when he or she is eligible for release; is that
21 correct?
22 A Assigned to an institution and thereby
23 all--(Interruption in internet connection).

24 COURT REPORTER: Thereby all what?

25 JUDGE HAYES: Say that again, Mr. Tate.

1 THE WITNESS: Assigned to an institution
2 and thereby all the parole eligible individuals are at
3 the institution.
4 Q (By Attorney Cotton) Got it. So in order for...I
5 think the first thing you said is that the person has
6 to be statutorily eligible to even get parole. Right?
7 A That's correct.
8 Q So somebody can't even apply until they've had 25
9 percent of their sentence; is that correct?
10 A Unless they're serving a life sentence, it's just 20
11 years.
12 Q Okay. So if Mr. Balsewicz' case...you're familiar with
13 the facts of Mr. Balsewicz' case obviously. Right?
14 A To the extent that I still remember them.
15 Q Right. But for someone like him, he was given an 80
16 year sentence so he's eligible at year 20 because
17 that's 25 percent; is that correct?
18 A That's correct.
19 Q And when somebody like him comes in front of the
20 Commission for the first time, he wasn't...certainly
21 wasn't granted parole the first time he went in front
22 of the Commission. You would agree with that?
23 A That was the outcome.
24 Q And it's...there is a recommendation made by a
25 Commissioner and then ultimately whoever is serving as

1 Chairperson either adopts or rejects that
2 recommendation. Correct?

3 A If we're speaking specifically in Mr. Balsewicz' case,
4 at the time, I don't recall whether the initial
5 deferral was more than 12 months.

6 The process changed a little bit under
7 my tenure where every recommendation was being
8 finalized by me.

9 But prior to that, only recommendations
10 for deferrals of either over 12 months for grants were
11 going to the Chair.

12 So process-wise at Mr. Balsewicz' first
13 hearing, I don't recall whether the Chair would have
14 rated on it or not.

15 Q So if the Chair recommends in May of 2017 a three year
16 deferral, that would require...if the Commission
17 recommends a three year deferral, then the Chair would
18 have to approve that if it's longer than 12 months. Is
19 that what you're saying?

20 A That's correct.

21 Q And ultimately, Mr. Balsewicz appeared in front of a
22 Commissioner who made a recommendation to you to grant
23 parole. Do I have that correct?

24 A That's correct.

25 Q And you talked before about staff. I think you said

1 that the Commissioner and you were guided by Statute
2 and Administrative Code. Would you agree with that?

3 A That's correct.

4 Q Is one of the considerations whether an inmate has
5 served sufficient time?

6 A That is, yes.

7 Q How is that measured?

8 A It varies. There is no...this is probably time is the
9 most subjective measure of the Parole Commission.
10 Criteria next to risk. It is kind of an amalgamation
11 of whether this individual is satisfactory to
12 programing. Whether they are...if adjusting well
13 amongst the institution.

14 You know, certain Commissioners may
15 assess it slightly differently, based on their only
16 determinant time was satisfactory once the other
17 criteria had been satisfied.

18 Others may strictly evaluate what the
19 actual nature of the offense was and the specifics of
20 that and whether sufficient time elapsed as to you know
21 indicate the seriousness of the offense is not
22 diminished by the amount of time that has gone by but
23 it is the least objective criteria.

24 Q Right.

25 A Specifics of like X equals enough time for X offense.

1 Q So the legislature set parole eligibility at 25 percent
2 of whatever the judge orders and then once it gets to
3 the Commissioners and to you, it's just a subjective
4 determination based on a variety of factors. Is that
5 what I hear you saying?

6 A That is fair.

7 Q And do you look at whether or not the individual has a
8 prior criminal record? Does that go into the analysis?

9 A Overall, yes. Not necessarily for time. It could
10 factor in on the risk criteria of for someone who has
11 past offenses.

12 Q And so in addition to whether the person has served
13 enough time, does the Commission look at whether the
14 person has shown satisfactory adjustment to the
15 institution?

16 A Yes.

17 Q What does that mean?

18 A That means whether they are in compliance and not
19 dem...and effectively responding well to the structure
20 of the institutional setting.

21 Q So it could be--

22 A Not violating rules and essentially adjusting to where
23 they are without miss...you know, behavioral issues.

24 Q Do you look at whether the person has participated in
25 programing?

1 A We do.

2 Q You're aware that Mr. Balsewicz completed all his
3 programing many years ago. Right?

4 A I am aware.

5 Q And do you look at whether a release plan has been
6 developed? Is that part of the consideration?

7 A That is one of the criteria.

8 Q Does the Commission have to conclude that an inmate has
9 reached a point where they wouldn't pose a risk to the
10 public and that release would be in the interest of
11 justice? Does that have to be considered?

12 A That is--(Interruption in internet connection)

13 COURT REPORTER: I'm sorry. That is
14 what?

15 JUDGE HAYES: One moment. Mr. Tate, can
16 you repeat your answer, please.

17 THE WITNESS: Yes. That is almost a
18 de facto definition of the risk criteria.

19 JUDGE HAYES: Thank you.

20 Q (By Attorney Cotton) So the Commission and then
21 according to the Chairperson both have to conclude that
22 the specific individual doesn't pose a further
23 unreasonable risk to the public. Is that what I hear
24 you saying?

25 A That would be a fair description.

1 Q Because certainly you don't approve of a release for
2 somebody who seems like they would be a risk to the
3 public. Right?

4 A That is correct.

5 Q If you yourself feel that somebody poses a risk to the
6 public, certainly you're not going to sign off on the
7 release, I assume. Is that fair to say?

8 A That's fair.

9 Q And that your review is independent of the Commissions,
10 is it not?

11 A Yeah, it would be an independent evaluation after the
12 Commissioners made their own independent evaluation.

13 Q And the Commissioner guided by Statute of Law issues a
14 written recommendation. Right?

15 A Correct.

16 Q And you, I think I heard you say before you not only
17 read that recommendation but you also look at all the
18 supporting materials. Or, opposing materials?

19 A I have the discretion to also look at the same
20 information the Commissioner had.

21 Q It's up to you what you choose to look at is what
22 you're saying?

23 A Yes.

24 Q And can you think of an occasion in your years as a
25 Chairperson where the Commission recommended release

1 and you rejected it, overruled it? Did that ever
2 happen in your career?

3 A I have...I have rescinded other decisions that make
4 outright rejection. I mean, yes, there are other ones
5 where we've chosen...I've chosen to not affirm the
6 recommendation for release.

7 Q Okay. So it truly is an independent review by you
8 where you might conclude they got it wrong, this person
9 should not get out?

10 A Or there are other things that I'm looking to see
11 accomplished prior to being comfortable signing my name
12 on a opposition.

13 Q Right. You may want a person to do more programing or
14 to serve more time or whatever you think is
15 appropriate. Is that fair to say?

16 A That's correct.

17 Q Okay. Now, once the Commissioner makes a
18 recommendation and in this case, you were shown a
19 report from the User J. Kramer. Do you know who that
20 person is?

21 A Yes.

22 Q That's a Commissioner you worked with in your career?

23 A Yes.

24 Q What is that person's first name?

25 A Jennifer.

1 Q Okay. So Ms. Kramer has experience determining whether
2 people should be released on parole. That's how she
3 gets that position. Right?

4 A Because of I guess how a person becomes a Commissioner?

5 Q Yeah.

6 A I mean, they would have to apply. They wouldn't
7 necessarily have to have direct experience releasing
8 people because the Commission is the only entity that
9 does that but there would have to be sufficient
10 evidence in history, work experience, making
11 assessments, evaluating peoples criminogenic needs,
12 looking at a-chip(ph) data and making a reasonable and
13 judicious decision.

14 Q Got it. So for Mr. Balsewicz, eventually, are you
15 aware that when his release was ultimately recommended
16 by the Commission that that was the fifth time that he
17 had come up for parole? Are you aware of that?

18 A I am aware.

19 Q And that on all the other prior occasions, the
20 Commission and Chairperson had declined a release and
21 for a variety of reasons. Would you agree with that?

22 A Yes.

23 Q Sometimes because at the outset because (Interruption
24 in internet connection) enough time but then as time
25 went on, there could be other reasons they would use.

1 Right?

2 A Yes.

3 Q And that before you did approve the parole, isn't it

4 true that the Parole Commission recommended something

5 called a PRI?

6 A Yes.

7 Q What is a PRI?

8 A That's a Pre-Release Investigation.

9 Q Okay. And if that were suggested or ordered in June of

10 2022, would you take issue with that? Does that sound

11 about right?

12 A June of 2022?

13 Q I'm sorry. January of 2022.

14 A That sounds correct.

15 Q And the PRI involves looking at a person's residence in

16 determining that they have a stable place to live.

17 Does it not?

18 A That is one of the factors, yes.

19 Q What are the other factors?

20 A Employment opportunities, how they're going to sustain

21 themselves physically, socially, what their potential

22 plans are for addressing any other factors that

23 contributed to their initial incarceration. Whether

24 that's you know substance abuse and things of that

25 nature. So all of those can be evaluated or should be

1 evaluated by the assigned parole agent to determine
2 whether the proposed plan satisfies, satisfactorily
3 addresses those needs.

4 Q Now, I have a question about the deferral because you
5 used the word deferral before. What is a deferral?

6 A A deferral is the period of time within which a
7 hearing, the next hearing will occur after a hearing
8 has been determined to not release to parole.

9 Q And if I told you that Mr...I know you said you were
10 familiar with the fact this was his fifth parole
11 hearing. If I told you that the record shows Mr.
12 Balsewicz' deferral is getting shorter every time he
13 goes in front of the Commission. Would you take issue
14 with that or does that sound right?

15 A That sounds accurate.

16 Q And is that how it typically works? Just so we have a
17 clear record on this. That if people are making
18 progress, they typically get shorter deferrals as they
19 make progress?

20 A Typically the deferrals shorten as (Interruption in
21 internet connection) gets closer but those deferrals
22 also align with specific tasks that are being
23 objectively accomplished between each hearing.

24 Q So if there was a January of 2022 and now finally a PRI
25 has been ordered and then there is only a three month

1 deferral, is that because the Commission now wants to
2 see what the PRI shows to determine whether that next
3 step to be taken. Right?

4 A Or we're calling for and find reasonable that 90 days
5 is sufficient time for a parole agent to conduct that
6 investigation.

7 Q Because now once we get to the stage of a PRI everybody
8 in the Commission is...the Commissioner is making the
9 signal light, if the PRI checks out, the person can be
10 released. Is that not the case?

11 A That is also, that is correct.

12 Q And the reason the deferrals get shorter is because the
13 person is accomplishing the tasks that the Commission
14 sets forth for that and that's why they don't need the
15 additional length of time for the deferral. Is that
16 what you're saying?

17 A That's correct.

18 Q But it also matters whether the person is maintaining
19 good behavior. Right?

20 A Yes. I mean, if tasks are being accomplished at the
21 same time a person is not satisfying criteria, we
22 wouldn't be continuing to press forth with seeking the
23 satisfaction of certain tasks because one of these
24 criteria's is outstanding.

25 So if a person's conduct is poor, we

1 wouldn't be asking for a PRI no matter you know how
2 long they've been because it's, that would be an
3 unreasonable risk essentially if a person is behaving
4 poorly and while incarcerated and where preparing this
5 person for release.

6 Q And you're aware that as it relates to Mr. Balsewicz,
7 his conduct, there has been no misconduct at all from
8 when he first became eligible for parole all the way up
9 until it was rescinded. Correct?

10 A I recall there being no misconduct--(Interruption in
11 internet connection)

12 COURT REPORTER: I'm sorry. I didn't
13 get that. There was a wave.

14 JUDGE HAYES: Can you repeat, Mr. Tate,
15 please.

16 THE WITNESS: Yeah. I hear the horns,
17 too.

18 I don't recall there being no misconduct
19 but I do recall a lengthy period of time--(Interruption
20 in internet connection)

21 COURT REPORTER: Recall a lengthy period
22 of time what?

23 JUDGE HAYES: Mr. Tate, a lengthy period
24 of time what?

25 THE WITNESS: Since the last date of

1 misconduct.

2 COURT REPORTER: Thank you.

3 JUDGE HAYES: Thank you.

4 Q (By Attorney Cotton) Right. And you would agree that,
5 I mean, this particular crime is certainly a violent
6 crime. Right?

7 A I mean, Statutorily defined, yes.

8 Q Right. Whether it's defined that way or not, it's
9 unquestionably a violent crime and a serious crime.
10 You would agree with that? Right?

11 A Absolutely.

12 Q And you're aware of the fact that there are victims in
13 this case for certain. Right?

14 A Yeah, absolutely.

15 Q We have a number of them in the meeting today but
16 you're aware of historically there has been victims
17 here. Right?

18 A Yes.

19 Q And you've also noted on your...the times that you've
20 reviewed Mr. Balsewicz' application, you've noted the
21 opposition of the victim's family. Have you not?

22 A I did.

23 Q I didn't hear that. I'm sorry.

24 A I did.

25 Q Right. So that's not a new factor. The victim's

1 family has always been opposed to Mr. Balsewicz' being
2 released. Fair to say?

3 A There has always been opposition to his release.

4 Q Right. And there are certainly supporters that he has
5 that may counteract that but sort of two sides here. A
6 group of supporters and then victims of family that
7 opposes. Right?

8 A There have been people opposing and people supporting,
9 yes.

10 Q Now, when the Commission concluded that a PRI made
11 sense here, and you reviewed the PRI. Would that be
12 correct?

13 A Yes. I looked it over.

14 Q And you know that obviously for you to grant parole in
15 this case, that you knew that Doug had a stable
16 residence to go to. Right?

17 A Yes, based on the Commissioner's evaluation and
18 recommendation report.

19 Q And that Doug had--(Interruption in internet
20 connection)

21 COURT REPORTER: Had what?

22 JUDGE HAYES: Doug...go ahead. Say that
23 again, Mr. Cotton.

24 Q (By Attorney Cotton) That Doug had, Mr. Balsewicz had
25 completed all of his programing. You're aware of that?

1 A Yes.

2 Q In fact, the programing had been completed many,
3 many...even before the parole process began. Right?

4 A Which is unusual for most parole cases.

5 Q Most people are in programing and that have to do it
6 for a much longer length of time but Mr. Balsewicz
7 finished it all.

8 A No. Most people who are--(Interruption in internet
9 connection)

10 COURT REPORTER: Most people what?

11 JUDGE HAYES: Mr. Tate, I'm sorry. You
12 broke up. Can you repeat your answer.

13 THE WITNESS: Yes. I said most parole
14 eligible people don't get their programing until later
15 in their incarceration.

16 JUDGE HAYES: Thank you.

17 Q (By Attorney Cotton) Now, Ms. Kramer concluded that
18 Mr. Balsewicz had diminished his risk by having
19 positive adjustment. Would you agree with that?

20 A That's what's written here, yes.

21 Q And certainly you felt that as Chairperson, that Mr.
22 Balsewicz had served sufficient time. Right?

23 A I determined that and I affirmed that by evaluation.

24 Q And you stand by that today. Right? You haven't
25 changed your beliefs on that. Right?

1 A When I rescinded it, I changed the assessment of time.
2 Q Okay. Well, you said before that you changed
3 your...you rescinded it because the victims weren't
4 notified. That was the reason. Right?
5 A I rescinded because a specific victim wasn't notified.
6 COURT REPORTER: Because what?
7 JUDGE HAYES: Specific victim wasn't
8 notified.
9 A Information and upon receiving that, evaluate time once
10 again.
11 Q Okay. So without that, and you don't know what that
12 person's input is, I guess, as you sit here today.
13 Right?
14 A No.
15 Q Okay. So again, as you sit here today or as you sat
16 there in the shoes you were in at the time, you had
17 felt that Mr. Balsewicz at that point had served
18 sufficient time. Fair to say?
19 A Incorrect by which time...point in time?
20 Q At the time you granted parole?
21 A Yes. At that time, I felt sufficient time had been
22 served.
23 Q Okay. Because it was almost 25 years. Right?
24 A That's right.
25 Q And you recognize that that(Interruption in internet

1 connection)

2 COURT REPORTER: He cut out.

3 JUDGE HAYES: You cut out, Tony. Can
4 you repeat your question?

5 ATTORNEY COTTON: I just said, that you
6 recognize that's a substantial length of time in prison
7 and he said that is.

8 JUDGE HAYES: Okay.

9 Q (By Attorney Cotton) And so just so the record is
10 clear. You did also note in your granting of parole
11 that there was victim impact at that time from the
12 people who had received notice. Right?

13 A Yes.

14 Q And you indicated that...are you the one who types...we
15 don't necessarily need to pull up the exhibit, you have
16 them in front of you...but the exhibit that sets forth
17 the granting of parole where it says: User: J. Tate,
18 Chairperson, April 27, 2022. Are you the one that
19 types the language above that? Where above
20 Chairperson?

21 A Yes.

22 Q So when you say, the Chair's decision is based on the
23 review of records. Then you go on to give other
24 reasons. That's all your writing. Correct?

25 A Yes.

1 Q And you did note that there is trauma to the victim's
2 family even as of that day even, April of 2022. Right?
3 A That's correct.
4 Q You weren't...you certainly weren't diminishing the
5 trauma that they had? You weren't trying to diminish
6 the trauma, were you?
7 A No, actually I was trying to acknowledge the trauma.
8 Q And then you note that your decision was based on
9 extensive review of the conviction history and Mr.
10 Balsewicz' behavior in custody; is that correct?
11 A That's correct.
12 Q That having served nearly 25 years in prison in your
13 estimation was sufficient time as of April of 2022.
14 Right?
15 A As to not depreciate the seriousness of the offense,
16 that's correct.
17 Q And that Mr. Balsewicz has now remained in prison
18 beyond that. Right? His parole was rescinded?
19 A Well, any amount of time past that would not depreciate
20 the seriousness of the offense.
21 Q Okay. He's already served enough, as you said. Right?
22 A At that time.
23 Q Yes?
24 A Right.
25 Q Right. And that Mr. Balsewicz demonstrated sustained

1 positive conduct. Right?

2 A That's correct.

3 Q And release time as we discussed was already approved.

4 Right?

5 A That's correct.

6 Q And in your opinion, he earned his return to the

7 community. That was something that he worked towards

8 and earned. Is that fair to say?

9 A That's correct.

10 Q As a political appointee, do you serve at the...were

11 you...you resigned from your position, if I understand

12 it correctly?

13 A That's correct.

14 Q And I think you said before that one or more members of

15 the victim's family had reached out to your office.

16 Right?

17 A That's correct.

18 Q You had been doing...in your opinion, you had been

19 doing a good job as Chairperson. Hadn't you?

20 A I would say so.

21 Q Okay. Sometimes people...it's a tough job. Sometimes

22 people aren't happy with your decisions. Right?

23 A That's to be expected.

24 Q Because you have to make a tough call sometimes in

25 order to release someone who's committed a violent

1 crime?

2 A Yes.

3 Q That falls on your shoulders but it also falls on the

4 Governor's shoulders because you're a political

5 appointee. Fair to say?

6 A Yes.

7 Q We know that that's the case here because we know the

8 victim's family has ultimately reached out to the

9 Governor's office.

10 A Is that a question?

11 Q Is that correct?

12 A Yes.

13 Q Do you know that...it's your testimony you never spoke

14 with Governor Evers directly but you did speak with his

15 staff. Right?

16 A Yes.

17 Q Is this like one staffer in particular that you spoke

18 with or did you have multiple conversations with

19 multiple staffers?

20 A I had multiple conversations.

21 Q Okay. Related to Mr. Balsewicz' parole grant?

22 A Yes.

23 Q And you would agree with me that--

24 JUDGE HAYES: One moment. Just to

25 clarify, Mr. Cotton. Multiple conversations with

1, multiple staffers; is that correct?

2 ATTORNEY COTTON: That's what he said.

3 JUDGE HAYES: Well, he said multiple,
4 multiple conversations. I just want to make sure it
5 was multiple conversations with multiple staffers.

6 ATTORNEY COTTON: I heard him say
7 multiple staffers as well.

8 JUDGE HAYES: Okay.

9 Q (By Attorney Cotton) And so, would it be fair to
10 characterize the theme of those conversations as the
11 staffers communicating to you the Governor's
12 displeasure with the granting of parole?

13 A It depends on when those conversations were occurring.

14 Q Okay. So some of them didn't involve displeasure with
15 the granting of parole?

16 A That's correct.

17 Q Okay. Now, let's focus on the ones that did. Okay?

18 A Okay.

19 Q At some point, on May 13th, a letter gets authored to
20 you. Is this letter mailed to you? Is that how you
21 received that?

22 A E-mail.

23 Q Okay. So you got an e-mail?

24 A Yes.

25 Q Did you read it?

1 A Yes.

2 Q Were you expecting to get such a letter from the
3 Governor?

4 A No.

5 Q And when you read it, did you enter a displeasure with
6 your decision?

7 A I understood it.

8 Q Right. It's pretty clear. Right?

9 A Yeah.

10 Q And in light of that, after you received that letter,
11 you, just to be clear, Mr. Tate, in the letter Governor
12 Evers cites to you on page 2 of Exhibit 3, on Section
13 PAC 1.07(7) of the Administrative Code. He actually
14 offers a Code provision directing you to use, to
15 consider that Code provision to rescind your decision.
16 Does he not?

17 A He does.

18 Q And he's imploring you. He uses the word implore to
19 look at the case again swiftly without any delay.
20 Right?

21 A Yes.

22 Q And it's an urgent request because it's being e-mailed
23 to you four days before Mr. Balsewicz is to be
24 released. Right?

25 A Not necessarily. It's four days before the grant is

1 effective. But there is still 30 days after that to
2 transpire or that could transpire prior to release.

3 Q Right. And thank you for that clarification. But it's
4 either 30 days and 30 days plus four. Somewhere in
5 that window. Right?

6 A Yes.

7 Q And Governor Evers informs you that he met with the
8 victim's family personally. Right? That they appealed
9 to him directly and met with him personally. Right?

10 A Right.

11 Q And it's the Governor's opinion that the case was
12 disturbing and horrific and that the family found it a
13 tragedy to this day. That was something that he
14 expressed to you?

15 A In the letter.

16 Q He's described a lack of transparency.

17 VOICE: Hold on here.

18 COURT REPORTER: I can't understand
19 that.

20 Q (By Attorney Cotton) I want to ask you about that. Do
21 you believe that there was a lack of transparency in
22 this process for Mr. Balsewicz?

23 A No.

24 Q What about accountability? Do you believe there's been
25 a lack of accountability here?

1 A I'm not sure to whom the account is required but no.
2 Q Okay. Do you believe there's been a notification
3 breakdown here?
4 A I believe there has been. Not that the Commission
5 failed to fulfill its duties as it relates to the
6 rescind certification but that the administrative
7 processes that would ensure notification for certain
8 parties did not exist.
9 Q Okay. So in other words, you're saying in neither you
10 nor the Commission did anything wrong. Somebody else.
11 For notification purposes, somebody else would have.
12 Is that what you're saying?
13 A I mean, ultimately the system at the time is
14 responsible but yes.
15 Q Okay. Now, this letter was e-mailed to you on May
16 13th. What was the date that you then rescinded the
17 grant? The parole grant?
18 A According to the rescission document, that would have
19 occurred May 19th.
20 Q So six days later?
21 A Yes.
22 Q Had Mr. Balsewicz...to your knowledge, Mr. Tate, had
23 Mr. Balsewicz between the granting of parole and the
24 rescission on May 19th, had he engaged in any
25 misconduct on his end?

1 A Not that I'm aware of.

2 Q Would you agree with me that in terms of his behavior
3 and things he did, Mr. Balsewicz himself did not do
4 anything to disrupt his grant for parole. Would you
5 agree with that?

6 A I would agree.

7 Q Certainly you've seen people who do that. Who sabotage
8 themselves or commit an infraction after it's granted.
9 Right?

10 A Or information comes to light of an infraction.

11 Q Okay. And here we didn't have anything like that on
12 Mr. Balsewicz' end. Right?

13 A Not that I'm aware of.

14 ATTORNEY COTTON: Give me one minute,
15 Judge, please.

16 JUDGE HAYES: Um-hum, fair enough.

17 Q (By Attorney Cotton) Mr. Tate, after parole was
18 rescinded, you were asked to inform Ms. Keckhaver about
19 eligibility and she asked you whether Mr. Balsewicz can
20 appear in front of the Parole Commission again. Do you
21 remember that?

22 A Yes.

23 Q So Mr. Balsewicz...and you said yes, he will be
24 allowed, I think you said in January of 2023 have
25 another hearing. Right?

1 A That's correct.

2 Q Now you've resigned as Chairperson. Right?

3 A That's correct.

4 Q Is there an acting Chairperson right now? To your
5 knowledge?

6 A Not to my knowledge.

7 Q Without a Chairperson, there can't be a grant of
8 parole. Fair to say?

9 A That's fair.

10 Q Now, this hearing in January, that would be...well,
11 that's the hearing. So the actual parole eligibility
12 date is...is it two months after the January hearing?
13 Is that how it works?

14 A The hearings occur two months prior to the parole
15 eligibility date.

16 Q Okay. So that means effectively Mr. Balsewicz has now
17 been given another defer, can we say. Right?

18 A Effectively, yeah.

19 Q And you would agree that the Governor faces re-election
20 in November. Are you aware of that?

21 A Yes.

22 Q And now Mr. Balsewicz' parole, and you would agree with
23 me, that Governor Evers staffers expressed to you their
24 concern over the political consequences of having
25 granted parole to a convicted murderer. They expressed

1 that to you, didn't they?

2 ATTORNEY KECKHAVER: Objection.

3 Mischaracterizes his previous testimony.

4 JUDGE HAYES: I'll allow it. Go ahead.

5 THE WITNESS: Can you the repeat the
6 question.

7 Q (By Attorney Cotton) The staffers when they indicated
8 Evers displeasure with this decision, they had
9 indicated to you that this is a politically difficult
10 situation for him because you've granted parole to a
11 convicted murderer. Haven't they communicated that to
12 you?

13 A Not convicted. They're granted parole to a lot of
14 people but there is displeasure about this particular
15 case.

16 Q Right. And this one got in to the news. Didn't it?

17 A Yes.

18 Q And there were articles written that you are aware of.
19 Right?

20 A Yes.

21 Q And you were even contacted yourself by a reporter in
22 this case from the Journal Sentinel. Right?

23 A A bunch of reporters.

24 Q Right. But in particular, the Journal Sentinal
25 reporter, Bruce Vielmetti contacted you. Didn't he?

1 A Yes.

2 Q And you told him...didn't you tell the reporter that
3 there was no basis to rescind parole against Mr.
4 Balsewicz. Those were your words. Weren't they?

5 A At the time of the interview perhaps, yes.

6 Q Okay. But despite that, you did rescind parole, after
7 Mr. Evers...Governor Evers reached out to you. Right?

8 A I did.

9 Q Now, the deferral that Mr. Balsewicz has been given is,
10 instead of being three months like the last one for the
11 PRI to be done, this deferral is now nine months.
12 Isn't it?

13 A More like closer to six. But, yeah.

14 Q Okay. So now his deferral got even...and that puts him
15 past, and that puts us past the November election.
16 Right?

17 A That's how time works, yes.

18 Q Okay. So now through no fault of his own, Mr.
19 Balsewicz' deferral has increased in length despite
20 throughout this process having decreased every step of
21 the way. Fair to say?

22 A That is accurate.

23 Q Now, Mr. Balwewicz will...the election will happen and
24 then whatever Chairperson is in place will make
25 whatever decisions in January or later. Is that fair

1 to say?

2 A That's correct.

3 Q Why did you resign?

4 A Because I was asked to.

5 Q By the Governor?

6 A Yes.

7 Q In light because of your decisions in this case.

8 Right?

9 A No.

10 Q Oh, okay. Was there some other? Was there some
11 misconduct that he said you committed that for him to
12 ask you that?

13 A No.

14 Q Okay. So what you're saying, is that he didn't give
15 you a reason. He just said I'm asking for your
16 resignation?

17 A That's not what I said.

18 Q Okay. What did you say? I'm sorry.

19 A (Interruption in internet connection)

20 COURT REPORTER: I think he cut out.

21 JUDGE HAYES: Mr. Tate, can you repeat
22 that, please?

23 COURT REPORTER: I'm so sorry. I think
24 you cut out.

25 A Sure. I was asked if I resigned because of this

1 decision and whether I was asked because of this
2 decision and my answer was no.

3 JUDGE HAYES: No.

4 Q (By Attorney Cotton) Do you know why you were asked to
5 resign? That be a better question.

6 A Yes.

7 Q Why were you asked to resign?

8 A I was asked to resign in anticipation of the upcoming
9 legislature going in to a special session and
10 litigating parole cases...or relitigating parole cases
11 in the public sphere and at the end of that process
12 rejecting my confirmation.

13 Q Oh, so the legislature was going to take special
14 action against you in light of that?

15 A That was what was anticipated by the administration.

16 Q That was the concern that he had?

17 A Yes.

18 Q And so now the position remains unfilled, as far as you
19 know. Right?

20 A As far as I know.

21 ATTORNEY COTTON: Okay. Those are all
22 of my questions. Thank you, Mr. Tate.

23 JUDGE HAYES: Thank you, Mr. Tate.

24 Ms. Keckhaver, do you have any questions
25 on redirect?

1 ATTORNEY KECKHAVER: Just a few, Judge
2 Hayes. Thank you.

3 REDIRECT EXAMINATION BY ATTORNEY KECKHAVER:

4 Q Mr. Tate, you indicated that one of the factors to
5 consider in deciding whether to grant parole is whether
6 an offender has served sufficient time so that release
7 would not depreciate the seriousness of the offense; is
8 that correct?

9 A That is correct.

10 Q And in that factor, is time the only consideration?
11 The amount of time served?

12 A Purely, no. Just the amount of time, no.

13 Q What other considerations go in to that factor?

14 A Well, because time is to determine as to whether to
15 depreciate the seriousness of the offense, it was duty
16 to gather information that determines the seriousness
17 of the offense. So in that case, there is an impact
18 that needs to consider as a measuring the seriousness
19 of the offense. That may be one of the characteristics
20 or pieces of information included in the evaluation of
21 time to appreciate the seriousness of the events.

22 Q And you indicated in your rescission decision that when
23 you rescinded, that changed your assessment of the time
24 factor; is that correct?

25 A Yes.

1 Q And how did it do that?

2 A Well, specifically, it says: That time as to not
3 depreciate the seriousness of the offense must be
4 reevaluated in the context of receiving that victim
5 feedback, or, at a minimum, providing ample opportunity
6 for feedback to be offered.

7 So, if it's received, it may or may not
8 change that evaluation.

9 But, it is our responsibility,
10 Statutorily and Constitutionally, to provide that
11 opportunity and then make our decision in that
12 context.

13 Q Thank you.

14 You also testified, based on the
15 questions from Mr. Cotton about a call that you had
16 with a reporter from the Milwaukee Journal Sentinel; is
17 that correct?

18 A Yes.

19 Q And do you remember and specifically you testified that
20 you at that time, you told the reporter that there was
21 no basis for the rescission; is that right?

22 A Because I have not yet rescinded.

23 Q Do you know when you spoke with that reporter?

24 A I don't recall.

25 Q Do you know whether it was before you learned about the

1 victim's daughter and the notice issue pertaining to
2 her?

3 A Just before.

4 Q And after you learned of problems, did you determine
5 that there was a basis for the rescission?

6 A Yes.

7 Q You're familiar with the standards for parole
8 rescission which is a change in circumstance; is that
9 correct?

10 A That's correct.

11 Q Is it your understanding that a change in circumstances
12 can only be something that's attributable to the
13 offender?

14 A Is it my understanding that only be attributable to the
15 offender, no, that's not my understanding.

16 Q So it's your understanding that it could be something
17 that is unrelated to something that the offender did or
18 did not do?

19 A That's correct.

20 ATTORNEY KECKHAVER: I have no further
21 questions.

22 JUDGE HAYES: Mr. Cotton, any follow up?

23 ATTORNEY COTTON: Your Honor, no.

24 JUDGE HAYES: No?

25 ATTORNEY COTTON: No.

1 JUDGE HAYES: Okay. Mr. Tate, thank you
2 for your appearance today. You're free to go, if you
3 wish or you can certainly stay, if you'd like.
4 THE WITNESS: Sure. Thank you.
5 JUDGE HAYES: Yes.
6 Karla, are you ready for your next
7 witness?
8 ATTORNEY KECKHAVER: I am.
9 JUDGE HAYES: Okay.
10 ATTORNEY COTTON: Could I just get one
11 minute?
12 JUDGE HAYES: Certainly.
13 ATTORNEY COTTON: Just to grab a little
14 bit of water.
15 JUDGE HAYES: Okay. We'll take a one
16 minute recess.
17 ATTORNEY KECKHAVER: Thank you.
18 (Recess had)
19 JUDGE HAYES: Ms. Keckhaver, you have
20 another witness. Correct?
21 ATTORNEY KECKHAVER: Yes, I do.
22 JUDGE HAYES: Okay.
23 ATTORNEY KECKHAVER: The Commission
24 calls Elizabeth Lucas.
25 JUDGE HAYES: Ms. Lucas, can you do me a

1 favor and raise your right hand.

2 ELIZABETH LUCAS,
3 called as a witness,
4 having been first duly sworn,
5 testified as follows:

6 JUDGE HAYES: What is your name, ma'am.

7 MS. LUCAS: Elizabeth Lucas. L-U-C-A-S.

8 JUDGE HAYES: Okay, we're on the record.

9 Where do you work, ma'am?

10 MS. LUCAS: I work for the Wisconsin
11 Department of Corrections.

12 JUDGE HAYES: Okay. Ms. Keckhaver, your
13 witness.

14 ATTORNEY KECKHAVER: Thank you.

15 DIRECT EXAMINATION BY ATTORNEY KECKHAVER:

16 Q Ms. Lucas, are you currently the Director of the
17 Department of Corrections Office of Victim Services and
18 Programs?

19 A Yes, I am.

20 Q And what is the DOC Office of Victim Services and
21 Programs?

22 A We are an office of eight people and we have sort of
23 three umbrella services that we provide to victims of
24 crime throughout the State of Wisconsin. We provide
25 them with information and support. We provide them

1 with notifications pertaining to their rights as crime
2 victims and we also provide restorative justice
3 services.

4 Q What are your duties as the Director of the Offices of
5 Victim Services and Programs?

6 A I oversee the seven Victim Services Specialists in our
7 office as well as the daily operations of the office.

8 Q How long have you held this position?

9 A About two and one half years.

10 Q So during the entire time that is relevant to this
11 case. Correct?

12 A Correct.

13 Q Victims are entitled to participate in the parole
14 process; is that right?

15 A Yes, that's correct.

16 Q Is it your understanding that that's required by law?

17 A It's my understanding that that right is afforded to
18 them by law.

19 Q Can you please describe the opportunities for victims
20 to participate in the parole process.

21 A Yes. The victims have the opportunity to participate
22 in the parole process if they are enrolled with the
23 Office of Victim Services and Programs. That is sort
24 of the way that the Parole Commission becomes aware
25 that there are victims of a particular crime. They can

1 enroll through the local district attorneys office
2 before the offender is sentenced or they can call the
3 Office of Victim Services and Programs at the
4 Department of Corrections afterwards to enroll
5 themselves.

6 Q And I definitely want to get to the enrollment process.
7 But, are you able to describe what the victims are able
8 to do once they enroll? What are they entitled to do
9 with regard to parole? Can they attend hearings?

10 A Once they enroll, they can, yes. So our work and what
11 is available to victims is guidance by Chapter 950 of
12 the Wisconsin Statutes as well as Constitutional
13 Amendment known as Marsy's Law and those are the two
14 items that outline what victims can do.

15 Q So you said that you attend hearings and they also
16 provide written statements?

17 A Yes, they can.

18 Q And are they entitled to receive notice of upcoming
19 parole hearings?

20 A They are, if they are enrolled.

21 Q And how about notice of parole decisions?

22 A They are entitled to notice of parole decisions, if
23 they are enrolled.

24 Q So I want to ask you a little bit about how the victim
25 notification process works. Who sends victims notice

1 of an upcoming parole hearing?

2 A My office, the Office of Victim Services and Programs
3 and parole interview notification letters or e-mails.

4 Q And who sends notice of the parole decision?

5 A If a parole outcome results in a deferral, my office,
6 the Office of Victim Services and Programs sends that
7 notification to enroll victims.

8 If the parole outcome results in a grant
9 where the offender is granted parole, that notification
10 comes from the Parole Commission.

11 Q How do you know who to send notice to? I think you
12 were talking about the enrollment process. Is that how
13 you know how to send notice to a particular victim?

14 A Yes. When victims enroll with our office they have an
15 option to select a communication preference. So they
16 can receive letters from us, they can receive e-mail
17 alerts from us or they can receive both.

18 Q But they have to enroll, in order to receive notice; is
19 that correct?

20 A That's correct.

21 Q Who keeps track of victim enrollment?

22 A The Office of Victim Services and Programs keeps track
23 of that.

24 Q How do you keep track of it?

25 A We have an internal database in which we'd track the

1 demographic information of victims who express interest
2 in enrolling with our office. We have their names and
3 addresses and contact information.

4 Q And is your office responsible for updating that
5 system?

6 A Yes, we are. When we receive the information.

7 Q How do the victims know that they have to enroll in
8 order to get notice?

9 A Generally, there are several ways a victim could be
10 made aware. Generally, the local district attorneys
11 office will provide them with that information and
12 inform them of the services that our office provides
13 and their right to enroll in notification.

14 Q And so that local notification from the district
15 attorneys office, does that occur at the time of the
16 crime?

17 A It occurs usually during the time of prosecution or the
18 criminal process.

19 Q And is that--

20 A (Interruption in internet connection)

21 COURT REPORTER: Pardon?

22 JUDGE HAYES: What did you say again,
23 Ms. Lucas? Repeat that, please.

24 THE WITNESS: I said, before someone who
25 comes in to DOC custody.

1 Q (By Attorney Keckhaver) At the local district
2 attorneys office, is it that part of the Victim Witness
3 Coordinator part of the district attorneys offices?

4 A Yes, it is.

5 Q What about minor victims, if you know? Do they receive
6 notice of the requirement to enroll?

7 A If they're--(Interruption in internet connection)

8 COURT REPORTER: She cut out. Ma'am,
9 you cut out.

10 JUDGE HAYES: Elizabeth, Ms. Lucas, can
11 you repeat your answer, please. You broke up.

12 THE WITNESS: Sure, sure. To my
13 knowledge, there is no mechanism in which to enroll
14 minor victims throughout the state. However, the
15 parent or legal guardian of a minor victim can enroll
16 on their behalf.

17 Q (By Attorney Keckhaver) And to your knowledge, if a
18 minor victim did not enroll or wasn't notified...if the
19 minor victim wasn't notified of the requirement that
20 they enroll to receive notice, is there any mechanism
21 by which they can receive notice of the enrollment
22 requirement once they become an adult?

23 A The only way they could do that is if they were aware
24 themselves of our office.

25 Q Are you familiar with Mr. Balsewicz' case?

1 A I am.

2 Q Have victims in Mr. Balsewicz' case enrolled to receive
3 notice with your office?

4 A Yes.

5 Q All right. I'm going to have you look at Exhibit 4.
6 If we could put that up on the share screen.

7 JUDGE HAYES: Yes.

8 ATTORNEY KECKHAVER: Thank you.

9 JUDGE HAYES: Now this is what I have.

10 Q (By Attorney Keckhaver) Can you see that okay, Ms.
11 Lucas?

12 A Yes, I can. Thank you.

13 Q Could you please tell me what Exhibit 4 is.

14 A This is a list of all of the victims that the Office of
15 Victim Services and Programs has enrolled who are
16 associated with this, Mr. Balsewicz' case.

17 Q And that's as of a few weeks ago. So August 8th, 2022;
18 is that correct?

19 A That's correct.

20 Q Did you create this document for this hearing?

21 A Yes, I did.

22 Q What information did you use to create this document?

23 A I used our internal database case management system
24 known as DOC NOTIS. That's N-O-T-I-S.

25 Q And I know you've looked at the exhibits. I provided

1 them to you beforehand. Can you tell us whether
2 certain exhibits, are those screen shots of those
3 database...the database information that you used to
4 create Exhibit 4 and I won't ask Administrator Hayes
5 to put them up because I know you looked at them. But
6 if I just give you the numbers, would you be able to
7 verify those are the screen shots of the database
8 information you used?

9 A Yes.

10 Q So this would be Exhibits 6, 8, 10, 12 and 13 through
11 17.

12 A Yes, those are screen shots of three different database
13 systems we had used to track.

14 JUDGE HAYES: Ms. Keckhaver, this is
15 Exhibit 6 here.

16 Q So those, having reviewed those exhibits, is that the
17 information that you used and is it your understanding
18 that Exhibit 4 is an accurate summary of the
19 information you obtained from those databases?

20 A Yes, that is my understanding.

21 Q Are you aware of whether the victims that enrolled with
22 your office as of August 8, 2022, include the victim's
23 daughter?

24 A As of August 8th, 2022, yes, it does include the
25 victim's daughter.

1 Q And which of these victims is the victim's daughter, if
2 you could just use her initials, please.

3 A I believe her initials are NB.

4 Q And when did she enroll?

5 A I have to look at the exhibit one more time. I'm
6 sorry.

7 She enrolled August 4th of 2022.

8 Q Okay. Thank you.

9 At the time of Mr. Balsewicz' parole
10 hearing in April 2022, would you say it's correct that
11 the only enrolled victims were JT, MB, KK and CV?

12 A Yes. According to our records, that is correct.

13 Q And did those victims receive notice of Mr. Balsewicz'
14 upcoming parole hearing?

15 A Yes, they did.

16 Q And I know you've reviewed the exhibits ahead of time.
17 Are Exhibits 5, 7, 9, and 11 copies of those notices
18 sent to the enrolled victims?

19 A Yes, they are.

20 Q Those victims were not the victim's daughter; is that
21 correct?

22 A That is correct.

23 Q You're aware that the Parole Commission rescinded Mr.
24 Balsewicz' grant because the victim's daughter did not
25 receive notice of the upcoming hearing?

1 A Yes, I'm aware.

2 Q And to your knowledge, did the victim's daughter
3 receive notice of the parole hearing?

4 A I'm sorry. Can you repeat the question? You glitched.

5 Q Oh, I'm sorry. To your knowledge, did the victim's
6 daughter receive notice of the parole hearing?

7 A Not to my knowledge.

8 Q Do you know why she didn't?

9 A To my knowledge, she did not receive notice because she
10 was not enrolled. (Interruption in internet
11 connection)

12 COURT REPORTER: I'm sorry. She
13 dropped.

14 Q (By Attorney Keckhaver) Ms. Lucas, I think you froze a
15 little bit there. To your knowledge, she was not
16 enrolled?

17 A To my knowledge, she did not receive notification
18 because she was not enrolled with the Office of Victim
19 Services and Programs.

20 Q Thank you.

21 Was the victim's daughter a minor at the
22 time of the crime, do you know?

23 A Yes, I believe she was.

24 Q And as a minor, would she have received notice of the
25 need to enroll to get notice?

1 A She herself would not have received that.

2 Q Did the victim's daughter contact your office after Mr.

3 Balsewicz was granted parole?

4 A (Interruption in internet connection)

5 Q Sorry. I think you froze for a minute. Was that a

6 yes?

7 A Yes. That's a yes.

8 Q Do you recall when that was?

9 A I don't recall exactly but I believe it was around May

10 3rd.

11 Q So before then Chair Tate rescinded Mr. Balsewicz'

12 parole grant. Correct?

13 A Correct.

14 Q And with whom did she speak at your office?

15 A She spoke with me.

16 Q Do you know why she contacted your office?

17 A Yes. She was expressing concern about the fact that

18 Mr. Balsewicz was granted parole, and she was

19 expressing concern about the fact that she had not been

20 notified of this. Officially notified of this.

21 Q Did other victims contact your office after Mr.

22 Balsewicz was granted parole?

23 A Yes, they did.

24 Q And why did they contact your office?

25 A Primarily because they were concerned about the

1 decision to grant Mr. Balsewicz parole and some
2 expressed concern also because they had not received
3 official notification of this.

4 Q Did you speak with Mr. Tate about Mr. Balsewicz' case?

5 A I did, yes.

6 Q Do you recall when that was?

7 A I don't recall the exact date. I believe it was some
8 time in May of 2022.

9 Q So would it have been after the decision to grant
10 parole but before Mr. Tate rescinded the grant?

11 A Yes.

12 Q And what did you discuss?

13 A Former Chairman Tate called me to inquire about whether
14 or not my office had victims enrolled for Mr.
15 Balsewicz' case, and whether or not they had provided
16 any input or received any notification.

17 Q And did you talk about the victim's daughter at all?

18 A We did.

19 Q Well, did you talk about whether she was enrolled?

20 A We did.

21 Q And did you also talk about whether...and did you tell
22 Chairman Tate that she had not been enrolled?

23 A (Interruption in internet connection)

24 Q Sorry. You glitched again.

25 JUDGE HAYES: Ms. Lucas, can you repeat.

1 THE WITNESS: I did tell Chairman Tate
2 that the victim's daughter was not enrolled. Thank
3 you.

4 Q (By Attorney Keckhaver) Did you talk about whether she
5 was a minor at the time and would have received
6 notice...whether she would have received notice of the
7 need to enroll?

8 A Yes, we did.

9 Q And what conclusions did you come to about that?

10 A We concluded that she would not have received
11 notification because of the fact that she was a minor
12 at the time the crime was committed and we had no
13 record of a guardian enrolling on her behalf at that
14 time.

15 Q And is it true that there was no mechanism at the time
16 for notification of minor victims of the need to enroll
17 once they became adults?

18 A (Interruption in internet connection)

19 JUDGE HAYES: Ms. Lucas, can you repeat
20 your answer, please.

21 ATTORNEY KECKHAVER: I think you froze
22 again. I don't know if the court reporter got that.

23 COURT REPORTER: No, I didn't get
24 anything.

25 JUDGE HAYES: Repeat your answer, Ms.

1 Lucas. Thank you.

2 THE WITNESS: We did not have any
3 mechanism to track minor victims once they reach age.

4 JUDGE HAYES: Thank you.

5 Q (By Attorney Keckhaver) After your case, after this
6 case, Mr. Balsewicz' case, and the victim notice issues
7 that you became aware of, did your office take any
8 action with regard to a minor victim enrollment?

9 A We did.

10 Q What did you do?

11 A We had discussions with the Office of Legal Counsel at
12 the Department of Corrections, and I also brought it to
13 the attention of the Wisconsin Department of Justice
14 Office of Crime Victim Services. And as a result of
15 that, it was also presented at a regional Victim
16 Witness Coordinator Meeting.

17 Q And is it your understanding that the fact that the
18 victim's daughter was not notified because she was a
19 minor at the time and that there was no mechanism for
20 her to receive notice once she became an adult? Is it
21 your understanding that that is not the responsibility
22 of your office. Correct?

23 A Currently that is not our responsibility. That's
24 correct.

25 Q And that there is...when you were having these

1 discussions with the Office of Crime Victim Services,
2 it was to remedy this problem on a local level; is that
3 correct?

4 A That's correct.

5 ATTORNEY KECKHAVER: That's all I have
6 for now.

7 JUDGE HAYES: Thank you.

8 Mr. Cotton, do you have any
9 cross-examination questions for Ms. Lucas?

10 ATTORNEY COTTON: No, Your Honor.

11 JUDGE HAYES: Okay. Thank you, Ms.
12 Lucas. Thank you for your testimony.

13 Ms. Keckhaver, do you have any other
14 witnesses?

15 ATTORNEY KECKHAVER: I do not.

16 JUDGE HAYES: Do you have any other
17 documents?

18 ATTORNEY KECKHAVER: I do not.

19 JUDGE HAYES: You've got 17 in. That's
20 at this point, the Parole Commission, I think you're
21 done.

22 Mr. Cotton, do you have any witnesses or
23 documents, at this point?

24 ATTORNEY COTTON: We don't, no.

25 JUDGE HAYES: Okay. That will end the

1 evidentiary portion for this hearing.

2 At this point, as I mentioned in the
3 prehearing, we would move to closing where we summarize
4 the evidence that's been offered. It's early on, you
5 gave an opening. This is the closing. Again, it's the
6 non evidentiary portion. It's summarizing for me and
7 for others who may read the record of what you believe
8 has been proven here.

9 And after that, just so the other folks
10 understand, after this point, we will recess from the
11 evidentiary portion and then we will be able to take
12 statements from the victims. Okay. At that point.

13 So I guess at this point, Ms. Keckhaver,
14 if you would like to start your closing.

15 ATTORNEY KECKHAVER: Thank you, Judge
16 Hayes.

17 The evidence presented today shows that
18 Mr. Balsewicz was granted parole.

19 After Mr. Balsewicz was granted parole,
20 there was a, quote, change in circumstances requiring
21 denial of parole under Wisconsin Administrative Code
22 Act 1.07(7). There's nothing in that Code provision
23 that indicates that this change in circumstances must
24 be attributable to the offender. The change of
25 circumstances can be anything. And here, there was a

1 significant change of circumstances relating to victim
2 notification.

3 While the Commission has shown today by
4 the preponderance of the evidence that while certainly
5 the victims and others including the Governor's office,
6 they have been unhappy with the decision to grant
7 parole to Mr. Balsewicz.

8 There was also a problem with notice to,
9 in particular, one of the victims. The victim's
10 daughter. She was not notified of her right to submit
11 the Victim Impact Statement and to attend the hearing
12 and that was because she was a minor at the time of the
13 crime and was not notified of the need to enroll by
14 local providers.

15 This notice problem was a sufficient
16 change in circumstances to warrant rescission of the
17 grant and was fully explained in Mr. Tate's written
18 rescission decision.

19 Former Chair Tate appropriately
20 rescinded Mr. Balsewicz' parole grant on May 19th,
21 2022, and the Commission asks that you recommend for
22 affirmance of that decision.

23 JUDGE HAYES: Thank you.

24 Mr. Cotton.

25 ATTORNEY COTTON: Are you ready, Judge?

1 JUDGE HAYES: Yes, sir.

2 ATTORNEY COTTON: While I think the
3 testimony is very clear that what happened here is Mr.
4 Balsewicz was...he's been a model inmate in the prison
5 system and upon being eligible for parole five years
6 ago or so, the Commission at that time made a decision
7 to defer parole eligibility for three years. And I
8 think the law that the Commission has to consider,
9 that's been spelled out at this hearing, I have no
10 doubt that the Commissioners and the Chairperson in
11 every step of the way has carefully considered what the
12 law says they have to consider when determining whether
13 to release a person.

14 And, former Chairperson Tate was, I
15 thought, summarized that very well when he indicated
16 that they consider things like how long a person has
17 served, the programing he had done in prison, their
18 behavior in prison.

19 And what we saw here is a step by step
20 process where Mr. Balsewicz earned the ability to be
21 released on parole. And that was earned, despite the
22 objection of every single person including the people
23 shaking their heads here today at this hearing.
24 Everybody that's been of the victim's family has spoken
25 up to oppose. That's never changed. They've opposed

1 his release and they continue to oppose his release and
2 nothing about this has changed from day one. Even
3 going back to sentencing which Mr. Tate indicates is
4 part of the institution file that he reviews. So you
5 have the unanimous opposition to him getting out of
6 prison. The Commission was absolutely aware of that.

7 Adding another person into that mix.
8 Whatever errors were made in terms of the notification.
9 Adding another person into that mix. Presumably, she
10 doesn't support his release. I'm assuming it's to
11 oppose his release which is cumulative because
12 everybody has opposed it, does not change the
13 circumstances that Mr. Balsewicz is operating under
14 which is perfect behavior in prison, a medical
15 condition that has resulted in him being confined to a
16 wheelchair, good progress, and the fact that everybody
17 who has reviewed this including the Chairperson
18 concluded that release would not depreciate the
19 seriousness of the crime.

20 Everybody. There has been absolutely no
21 confusion about the type of crime. How brutal it was.
22 However you want to characterize it. Everybody is
23 aware of that.

24 And the Chairperson, I think, made a
25 very well reasonable decision to release Mr. Balsewicz.

1 And the record is clear that every step of the way,
2 Your Honor, Mr. Balsewicz' release was getting closer
3 and closer because the deferrals were shorter and
4 shorter.

5 It's only once the victim's family
6 applies political pressure to the Governor with an
7 election coming up in a few months, driving to the
8 capitol, meeting with the Governor, imploring him to do
9 something about this, and he then writes a letter to
10 Mr. Tate scrambling to find a somewhat vague
11 Administrative Code provision that doesn't apply here.

12 Because the whole idea behind it, any
13 change of circumstances is that there's been something
14 done by the individual to cause parole to have to be
15 rescinded and there is absolutely nothing that's
16 happened here. Everything is exactly the same. The
17 victims still oppose the release.

18 Mr. Balsewicz has done nothing to change
19 his situation. In fact, he's continued to be a model
20 inmate in prison.

21 And, as much as people may not like that
22 idea that he gets out, the Chairperson made a reasoned
23 decision, he followed the law, and I would argue that
24 there hasn't been any change.

25 There may be a notification issue, but I

1 don't believe that that changes the circumstances here.
2 Nor, does it change any of the views that any of the
3 victims have. They all still oppose the release.

4 I think you ought to issue a decision in
5 Mr. Balsewicz' favor.

6 JUDGE HAYES: All right. Thank you.

7 As I mentioned earlier, we're not
8 following the timelines in Hearings and Appeals Code 2.
9 I, my Administrative Code 1 has a 30 day work rule
10 which I will issue a decision within 30 days.

11 At this point, I would like to recess
12 briefly in order just to take a break and then I'll
13 come back and I'll hear the victim statements.

14 Anything else?

15 Yes, Tony.

16 ATTORNEY COTTON: I don't have anything
17 else. I want to, while we're on the record.

18 JUDGE HAYES: Sure. We're still on the
19 record. Their statements will be on the record as
20 well.

21 ATTORNEY COTTON: Right. As much as I
22 understand that they have a right to observe, I don't
23 believe the Administrative Code provides a mechanism
24 for victims to make statements here today. They can
25 make statements to the Parole Commission. The law

1 provides that. But, I don't believe that there is any
2 Code provision that allows a variety of people to show
3 up and start making statements at an administrative
4 hearing that is a hearing strictly related as to
5 whether there has been a change in circumstances.
6 That's the only issue in this hearing. Not the
7 opinions of the victims.

8 JUDGE HAYES: Ms. Keckhaver, do you want
9 to respond to that?

10 ATTORNEY KECKHAVER: Your Honor, on
11 behalf of the Parole Commission, who is my client here
12 today, we don't have a position on that particular
13 issue whether victims have a statutory or a
14 Constitutional right to appear at this type of a
15 rescission hearing. But again, I'm not speaking on
16 behalf of the Department of Corrections. They are not
17 my client here.

18 JUDGE HAYES: All right.

19 ATTORNEY KECKHAVER: So we'll take no
20 position on this.

21 JUDGE HAYES: Mr. Cotton, I'm reading
22 from the Constitution, and it says here, it's on the
23 Constitution Section 9m. The Victims of Crime.
24 (2)(i). Victim upon request, has the right to be heard
25 at any proceeding during which a right of the victim is

1 implicated, including release, plea, sentencing,
2 disposition, parole, revocation, expungement, or
3 pardon.

4 That's just from the Constitution.
5 That's how I'm operating on this right now.

6 ATTORNEY COTTON: Okay.

7 JUDGE HAYES: All right.

8 ATTORNEY COTTON: And I would agree with
9 that, I would note.

10 JUDGE HAYES: Well, it's Constitutional.
11 I'm just reading it. I don't mean...so that's how I'm
12 pursuing. That's how I'm moving forward. Okay?

13 ATTORNEY COTTON: Okay, understood.

14 JUDGE HAYES: We'll do a brief break and
15 we'll come back and take victim statements at that
16 point.

17 We're off the record.

18 ATTORNEY COTTON: Okay.

19 (Recess had)

20 JUDGE HAYES: Okay. We're back on the
21 record.

22 Let me briefly comment. This is a
23 period where, as I mentioned, where victims have a
24 right to be heard.

25 I would also note that, among other

1 rights, victims have a right to be treated with
2 dignity, respect, courtesy, sensitivity and fairness.
3 I hope we've tried to do that here today and continue
4 to do that. I hope.

5 You also have a right to privacy. I
6 would ask that you not record this. While you may not
7 have a problem telling your story. To the extent that
8 you're...you all, what is apparent is you know each
9 other and there may be others that may have a problem
10 with you sharing that. So understand if you...there is
11 a record being kept. The intent here. This will be
12 shared with the Parole Commission and I think at this
13 point is that we will, to depersonalize and at times
14 the comments that you make. You know, Victim 1, Victim
15 2, Victim 3. That kind of thing. Instead of, to
16 depersonalize some of this. At least for people from
17 the outside who may read this.

18 Also, I would ask that you direct your
19 comments to me and certainly not to Mr. Balsewicz.
20 Okay. This is about you telling me.

21 And according to the State Constitution,
22 victims, they have a right to be heard and to have
23 information pertaining to the economic, physical and
24 psychological effect upon the victim of the offense
25 submitted to me.

1 So it's we're talking about a lifetime
2 and I've asked everyone to condense their comments to
3 within 10 minutes. I'd also ask them to limit to what
4 the Constitution says that your purview is. It's
5 actually a condensing of a lifetime of living. I
6 understand.

7 You may get...I'll keep a time here. We
8 may get to the end and I may interrupt and ask you to
9 tie it up, to shorten it or whatever, and that's...and
10 I view that as my authority to maintain the order here.
11 So understand that I'm not trying to be rude but
12 understand that everybody...if you take more, somebody
13 else has to take less is the point.

14 So any questions on that?

15 VOICE: No.

16 JUDGE HAYES: Okay.

17 VOICE: No.

18 JUDGE HAYES: All right. And
19 internally, you have an order which is fine with me of
20 who you'd like to go first.

21 And I think, Diane, you told me that
22 Michael is going first. Correct?

23 VOICE: Yes.

24 JUDGE HAYES: I'm not going to swear
25 you. This is not an evidentiary portion. It's your

1 opportunity to be heard. Okay. You're not going to
2 get questions. You're not going to be cross-examined.
3 But at this point, it is an opportunity to be heard.

4 Okay. Go ahead, sir.

5 VICTIM 1: Thank you, Judge Hayes. And
6 believe me, everything that I say is the truth and the
7 whole truth and nothing but the truth.

8 (Multiple voices speaking at the same time)

9 COURT REPORTER: Wait. There is a lot
10 of other stuff going on.

11 (Multiple voices speaking at the same time)

12 COURT REPORTER: Wait a minute

13 JUDGE HAYES: Hold on. Mike, can you
14 hold on a minute.

15 COURT REPORTER: They're talking.
16 Nobody can hear.

17 JUDGE HAYES: We're keeping a record
18 here so I need to hear your voice and only your voice,
19 sir.

20 COURT REPORTER: They need to mute.

21 VICTIM 1: I have my volume up as high
22 as I can go. Can you hear me clearly now?

23 JUDGE HAYES: We're good.

24 COURT REPORTER: Yeah. There were other
25 interferences, sir.

1 VICTIM 1: My name is Sergeant Major
2 Michael Binder. I'm the oldest brother of Johanna
3 Balsewicz. I served in the Army for 29 years and I
4 also believed that I was one of the toughest guys in
5 the neighborhood. I realized I was wrong.

6 25 years and 77 days ago, Johanna was
7 savagely stabbed to death 42 times by her husband, Doug
8 Balsewicz.

9 The call that came from my oldest
10 sister, Christine, I have never forgotten the day, the
11 time. I play that message over and over in my mind
12 throughout all of these years.

13 Second call that I received was from my
14 father. He asked me to do him a favor. I asked him
15 what that favor was. And, he said he needed me to go
16 to the medical examiner's office to identify Johanna's
17 body. I pleaded with him not to ask me to do that. I
18 did not wish to do that. I reluctantly did.

19 I will never forget. I will never
20 forget the look, facial stabbing wounds, my sister
21 lying dead on the table with 20 wounds to her neck and
22 face. That image has stayed with me and probably will
23 until the day I die.

24 Little did I know how much the single
25 life changing event would change me. My ability to

1 trust people destroyed and I became very withdrawn. I
2 was no longer the life of the party. I was very
3 fearful of other sisters and the two daughters that I
4 have about dating men and the situations that they may
5 find themselves in. But lastly, whether it was due or
6 not, the guilt that I have for not protecting my baby
7 sister.

8 Johanna called Doug her knight in
9 shining armor. She loved him even though my parents
10 were against the relationship. But the man that she
11 loved, destroyed her and the life of her children.

12 Her wounds clearly demonstrated how she
13 fought for her life and I can only think about how
14 scared she was as were her children as she was being
15 stabbed 42 times.

16 Records do show, and this is on the
17 record, that Doug stated that he has a criminal mind
18 and knows how to get away with things.

19 No wonder he has shown that being a
20 model prisoner because he knows how to get away with
21 things. Especially, a person who is looking at 80
22 years of his life in prison. He had nothing to lose.

23 This murder was premeditated. That was
24 proven. He stabbed his wife to death. He left his
25 children to listen to her gurgle and take her last

1 breath. And then, he left to eat at McDonalds as his
2 children, Christopher and Nikkole, laid on their dead
3 mother's body through the night.

4 Doug has never shown a thread of remorse
5 for this heinous crime.

6 I guess to be rehabilitated, you have to
7 at least show that you're sorry for your actions.

8 This May, with the news of a possible
9 parole, my life has been abandoned. The justice that I
10 thought Johanna and her family would get for Doug's
11 evil deed is not the justice at all and it's like I'm
12 living June 3rd, 1997, all over again.

13 Doug deserves due process. That's what
14 I hear.

15 Johanna and her children did not get due
16 process for all that has happened.

17 Johanna does not get a second chance at
18 life. Her murder was forever.

19 Christopher, the oldest boy, my nephew,
20 was so full of guilt for not being able to remove his
21 dead mother's body from the (Interruption in internet
22 connection) of him to call 911 which Johanna taught
23 both of her children to do. He carried that to his
24 grave as he died in a car crash approximately three
25 years ago.

1 Doug's words. I have a criminal mind
2 and I know how to get away with things.

3 Doug Balsewicz must not be fooled and he
4 must and he needs to complete at least 24 more years of
5 that sentence.

6 Judge Sykes herself had recommended no
7 parole because of the brutality and the viciousness of
8 this crime.

9 Thank you, Judge Hayes.

10 JUDGE HAYES: Thank you, sir, for your
11 time.

12 Next. Is it Karen?

13 VICTIM 2: Yes. Can you hear me?

14 JUDGE HAYES: Yes, I can hear you.

15 Go ahead, Karen.

16 VICTIM 2: Hello, Judge Hayes.

17 I relive the death of Jo-Jo every day.
18 These images of Doug, chasing her around that bedroom
19 stabbing her to death, I see her fighting for her life
20 in front of her two and four year old children. I see
21 the children screaming and hiding for cover scared to
22 death. All four of them in one room while Doug
23 brutally stabbed Jo-Jo over 40 times.

24 I will never get this vision out of my
25 head. And then, Doug leaves Jo-Jo half on the floor

1 and half on the bed bleeding to death. The children
2 stayed in that room for eight hours with their dead
3 mother before walking in the streets the next morning
4 hand in hand.

5 Doug neglected his two children after
6 brutally stabbing Jo-Jo, and then leaves the house with
7 the children and their dying mother. Why wasn't Doug
8 charged with child neglect?

9 To see the bedroom filled with blood on
10 every part of the wall, floor, bed and carpet was
11 traumatizing to me.

12 A large part of me has been stripped
13 away.

14 I no longer can see my sister or hear
15 her voice.

16 Jo-Jo was a loving, compassionate, funny
17 and inspirational woman. She loved her family so much
18 and her children meant everything to her. She was a
19 great mom and just wanted to be loved.

20 Doug abused her even while dating her.
21 The abuse continued to her death. My heart is burning
22 and broken knowing Jo-Jo's daughter and child,
23 grandchild, are living out here without their mom,
24 brother and uncle.

25 Christopher, Jo-Jo's son, who died at

1 the age of 27, who always felt guilty that he couldn't
2 save his mom that night.

3 Another part of me stripped away because
4 he was like a son to me. He lived with us for many
5 years. He was the most compassionate human being you
6 could ever meet. The stress and guilt got the best of
7 him.

8 My heart and stomach are broken and sick
9 knowing that Doug not only brutally murdered my sister
10 but also asked his brother for a gun to kill my other
11 sister. Doug is a sick, jealous, controlling,
12 obsessive and a cold blooded murderer that needs to
13 serve at least another 25 years in prison. He only
14 served 25 years out of an 80 year sentence and that is
15 not enough for this heinous crime. Judge Sykes even
16 stated in the transcripts that her recommendation is
17 that Doug does not get any early release of parole.
18 That he is a dangerous human being. I have her
19 transcripts that shows that.

20 Why should Doug be out on parole living
21 a normal life and my entire family is struggling with
22 ours?

23 Why should Doug be able to date again
24 and do the same thing to another human being? Would
25 you want this person out dating your daughter? Just

1 think about that.

2 A person with control, jealousy,
3 obsession and a criminal mind, cannot possibly be
4 rehabilitated. What courses did Doug take in prison
5 that made the Parole Commissioner sure that Doug was
6 rehabilitated. Just because Doug completed courses in
7 jail and was a model inmate does not mean that he was
8 rehabilitated. He has not paid his time for the crime.
9 Out of line.

10 Doug did not show remorse in court for
11 the sentencing. He came out smirking at all of us. He
12 had to walk past all of us when he left the courtroom
13 and he had a smirk on his face staring at each and
14 every one of us.

15 Letting Doug out before another 25 years
16 served would bring fear to me and my family. He killed
17 my sister and wanted to kill another sister.

18 My hope is that, with all the Parole
19 Office knowledge of this case, they will also see that
20 this man is dangerous and needs to serve more time for
21 the crime.

22 Thank you, Judge Hayes.

23 JUDGE HAYES: Thank you. Thank you for
24 your statement.

25 Next. Nikkole. If you could explain

1 your relationship, please, with the deceased.

2 Go ahead.

3 You're on mute. Can you unmute?

4 VICTIM 3: Sorry.

5 I am the daughter of that piece of scum,
6 sitting in the chair.

7 I don't understand how you can look at
8 someone who murdered someone, stabbed them over 43
9 times and say that they should be allowed to walk
10 outside of bars.

11 What he did is messed up a whole lot of
12 peoples' lives. Including mine and my brother's. I
13 mean, we didn't have anyone growing up. We didn't have
14 a mom. He took that away from us. And, we didn't have
15 a father.

16 He, because of what Doug did, it messed
17 me up physically, emotionally, and mentally. And, I
18 went through a lot of counseling. I couldn't talk
19 until I was 6. I had nightmares until like 14 years
20 old of what happened that night over and over and over.

21 And, for some reason, people think he
22 deserves to get out on parole.

23 The Judge, when he was first sentenced,
24 said that he should not ever be eligible for parole
25 which he should not have. He didn't even serve half

1 his sentence and then they think that's justice for
2 what he did.

3 I just think it's extremely unfair. My
4 mom didn't get a second chance so why should he?

5 I'd be very frightened if he got out of
6 prison. And, considering the fact that no one notified
7 me or told me how to be notified of his release or his
8 paroles, it was quite scary considering he only lived
9 20...or, he was only in the prison about 20 minutes
10 away from where I live.

11 And, I mean, prison doesn't just change
12 you. It probably makes it worse.

13 So, congratulations that he mopped the
14 floor and he passed the test. But how does that judge
15 how he will survive outside and not do it again to
16 someone else?

17 I think he deserves to rot in prison for
18 the rest of his life.

19 Thanks, Judge Hayes.

20 JUDGE HAYES: Thank you. Thank you for
21 your time.

22 Next. Is it Jeanette?

23 VICTIM 4: Thank you.

24 I'm sister to Johanna and I just have
25 kind of a question. So what is the definition of a

1 narcissist? That would be two words. Douglas
2 Balsewicz. And a sociopath, by the way.

3 So along with what my sisters and my
4 niece have told you. Yes. Doug was a miserable
5 person. He married my sister. He, after a few years,
6 he treated her like crap. Her life became terrorized.
7 He traumatized his children by pretending to be a demon
8 coming out of their floor in the middle of the night
9 where my nephew could not sleep in his own bed. And
10 after that, and what my sister saw what he was doing, a
11 divorce ensued.

12 And he moved up. And because he always
13 says, his favorite line was: If I can't have you,
14 nobody will. He made that come true. He made that
15 come true on June 3rd, 1997, when he snuck in her
16 house, laid in the basement, waited for her to go to
17 sleep, along with her children, went upstairs, pulled
18 the covers off of her and Nikkole, began to stab her,
19 trapped her in the room and eventually he got 42 stab
20 wounds on her.

21 Doug was always the guy who walked
22 around and said, if I can't have you, nobody will.

23 He'd go to family functions. He'd go to
24 a wedding and Johanna could not even dance with her own
25 cousin without this man stepping in between them with

1 his arms crossed and saying, you're not going to dance
2 with him.

3 When he was...went to court after he was
4 arrested for her murder. He sat and smiled at us. He
5 smirked.

6 A month before her murder, he came to my
7 house and told me he had planned to kill her. He had
8 planned to kill her. But what I said, Doug, don't say
9 that. He turned around, looked at me with a smile and
10 said I didn't mean it. I was just saying it because I
11 was mad. A month later, she was dead.

12 When we went to her funeral, it was
13 during the summer and we thought that we could put a
14 beautiful outfit on that she had just graduated at
15 Concordia University with. No, we had to put a long
16 winter sweater on her with white gloves because of so
17 many stab wounds on her.

18 Now, I look at all this, and I'm
19 listening to what everybody was saying, how everybody
20 is supposed to be notified. The way I got the
21 notification was through his family member. Not
22 through the court. Not through the Parole Commission.
23 Through his family member. We received a phone call.

24 The Parole Commission didn't even have
25 enough class to answer our phone call. And when we

1 wrote our impact statements out, we sent those in and I
2 believe that they were never read.

3 COURT REPORTER: I can't hear her.
4 She's kind of muffling out.

5 JUDGE HAYES: Can you speak up, please.

6 COURT REPORTER: You're kind of muffling
7 out.

8 VICTIM 4: I believe that those impact
9 statements were never read, that we had written. And
10 they say that they wrote up or called us to let us know
11 what the outcome of his parole was. Nothing. Did not.

12 I'm just saying this man does not belong
13 out on the streets. Whether he's in a wheelchair. It
14 doesn't matter. I know this man well. He was my
15 brother-in-law. I know him well.

16 Being in prison is easy for him because
17 guess what? You don't beat up on men. You only beat
18 up on women.

19 Thank you.

20 JUDGE HAYES: Thank you, Jeanette.

21 Next. Christine.

22 VICTIM 5: Thank you, Judge Hayes.

23 I am Johanna's oldest sister. And yet,
24 when I found out what happened to Jo, I was with my mom
25 and dad. We had just gotten back from grocery

1 shopping, and the gentleman came in and told my parents
2 that Johanna had been killed. We right away knew it
3 was Doug because we knew his temper. We knew how he
4 was with her.

5 I have gone through years of therapy.
6 Still in therapy. Always afraid. Always looking over
7 my shoulder.

8 And my last statement is: The day that
9 my mom heard the news of Johanna. In my heart, Doug
10 killed my mom because she ended up with cancer which is
11 related to stress and the death of her daughter is what
12 did that. And, we now don't have our mother either.

13 Thank you, Judge Hayes.

14 JUDGE HAYES: Thank you, ma'am,
15 Christine.

16 Next. Kim.

17 Unmute yourself, ma'am.

18 VICTIM 6: Okay.

19 JUDGE HAYES: Thank you.

20 VICTIM 6: Good afternoon.

21 I am Johanna's sister. Johanna was born
22 the ninth child, from nine children. I'm the eighth.

23 I wanted to give you a little
24 understanding of who she was. If I may.

25 When she was born, my mom gained a great

1 bond with her because the other kids, most of them,
2 were on their way to living their own life so she was
3 able to spend more quality time with the younger ones.
4 Me included. She was a wonderful little baby.
5 Beautiful. She learned how to play the organ at eight,
6 nine years old, and I remember how I cried because she
7 would play Chariots of Fire as if she was a
8 professional.

9 She had some downfalls throughout her
10 life.

11 She had, my sisters took us to the lake
12 front where she stepped into the water and stepped on a
13 piece of glass and nearly cut all of her toes off.
14 They were stuck together by glass. She had to have
15 surgery to keep her toes.

16 She also was playing on a swing set and
17 in order to avoid kicking her cousin in the head, she
18 brought her face forward and cracked her lip wide open
19 which she would gain the nickname from children Lumpy
20 Lip.

21 COURT REPORTER: Lumpy what?

22 JUDGE HAYES: Lumpy Lip.

23 VICTIM 6: Lumpy Lip.

24 COURT REPORTER: Thank you.

25 VICTIM 6: Not long after that, she was

1 attacked by a German Shepherd in the neighborhood and
2 had multiple surgeries for that.

3 She had also went to school and while
4 playing on the playground, they just had poured new
5 asphalt. She stuck a stick in the asphalt and her
6 fingers went with it and burned the skin off of her
7 fingers.

8 She overcame all of that. She overcame
9 all of that.

10 As kids growing up, she was my best
11 friend. We're eight years apart. Always spent so much
12 time together even as adults.

13 When she went off to marry Doug, she
14 thought she was very happy.

15 As time went on, we seen what he was all
16 about because we had already known the family through
17 my other sister marrying his brother and we knew what
18 Doug was about. So, my parents forbid Johanna to have
19 anything to do with Douglas. But being her young self
20 and thinking she was in love, she went for him
21 anyway's.

22 During her time with him, it was the
23 checking up, the telling her if I can't have you,
24 nobody will, the abuse, the control.

25 Even his children. I remember

1 Christmas, his son sitting on his lap and he was
2 wiggling around and crying, and he covered his nose
3 with his hand...and covered his mouth and nose with his
4 hand as Christopher tried to squirm away. So he is a
5 child abuser also.

6 When Doug committed this murder, my
7 daughter was 13 years old. She looked to my sister as
8 a second mom. If I needed to have someone else talk to
9 her about different things that maybe I couldn't do at
10 the time, my sister stepped in. She spent a lot of
11 time at my sister's house. My daughter did.

12 When Doug killed Jo-Jo is when I first
13 found out that he was molesting my daughter when she
14 was there. No, we didn't do anything about it because
15 I said he's going to get 80 years. We're not going to
16 do anything about it. I could kick myself for that.

17 So, Judge, I look at her daughter,
18 Nikkole, who has been through so many trials and
19 tribulations. I look at her. She is partially deaf.
20 She had speech problems growing up.

21 At the time that my mother passed away
22 and my sister passed away from cancer, which I believe
23 is due to what Doug did to Jo-Jo.

24 These children had to be split up
25 because Nikkole was taking on the role of Christopher.

1 It was like she didn't have her own self. So one went
2 to one family member, Christopher went to the other
3 family member.

4 During this time, Nikkole was raped by
5 the family member's husband that was taking care of
6 her.

7 Christopher had his own demons that he
8 explained to me he just thinks of it every night. His
9 dad coming up the steps and making this whisper sound
10 as he went in and stabbed his mother to death. He
11 talked to me about how people have got to be blamed for
12 this. Including, himself.

13 I look at Nikkole, being a mom now,
14 going through what she went through, and now she no
15 longer has a mother or a brother who was always there
16 for her. She has to live with the pain that was
17 brought on her every single day from the murder to
18 moving to different locations, to rape. And, I
19 honestly don't know how she does it.

20 But I will tell you this. And, she
21 might not agree with me. But, my siblings would.
22 Nikkole has no emotions. She has no emotions. It's
23 actually scary because they're hidden. They're hidden.
24 And, I wish so much that it was different for her.

25 So Judge, with all this in mind. My

1 sister was a real person. She's not just a name.
2 She's not just a number. She's just a regular person
3 that graduated to...that graduated to make a life
4 better for herself once she divorced that monster.
5 And, she couldn't even begin her career. The jealousy
6 and control took it from her. She wasn't able to do
7 any of it. She wasn't able to see her children go to
8 school for the first time. She wasn't able to be there
9 for her children when they had babies. And the loss of
10 a grandmother, painstaking.

11 And then to find out, that he would be
12 allowed out with all this pain and everything else
13 going on. I don't think 25 years is enough time. Add
14 25 more on to it.

15 JUDGE HAYES: Thank you.

16 VICTIM 6: At least let him do 25 for
17 each count that he had which was 40 for each count that
18 he had.

19 And let me say this, too. When we did
20 the plea bargain. The only reason why we did it is
21 because he was going to put his four year old son on
22 the stand. And we did the plea bargain to not hurt him
23 anymore emotionally. I'm speaking of Christopher.

24 The other thing was he was supposed to
25 say where he threw the knife. And, he never did. He

1 didn't keep the bargain.

2 And yes, it is true. As we all lined up
3 in the court and we're sitting there. And he looked at
4 every single one of us with a shitty grin on his face.
5 Excuse me. And that right there told me there is no
6 remorse in that man. He planned it out. He did what
7 he planned to do. He left his two small children to
8 fend for themselves.

9 Judge, us siblings cleaned up her
10 bedroom. Had to tear the carpet out. Blood was
11 everywhere including the hallway. Their little hand
12 prints were downstairs so they could get out of the
13 house. But, there was blood on everything. And the
14 only thing I have to touch, that was of my sister, is a
15 piece of hair that was stuck in the pile of blood on
16 the floor.

17 Judge, please.

18 Thank you.

19 JUDGE HAYES: Thank you.

20 Kathleen.

21 VICTIM 7: Thank you, Judge.

22 I want to keep this short because
23 everybody just said everything I wanted to say.

24 But I'll tell you. June 3rd, 1997, was
25 the last day of my life, too.

1 When I got the news my sister was
2 murdered. I felt like I was murdered as well. My life
3 went downhill. I got depression, post traumatic stress
4 disorder and I started drinking. I ended up with
5 marital problems.

6 Doug didn't give anything. He came to
7 my house. He is creepy. I had to be on the phone
8 while she barricaded herself in her bedroom because she
9 was scared to death of him. I don't go one
10 day--(Interruption in internet connection)

11 COURT REPORTER: I'm sorry. What did
12 you just say? I what?

13 JUDGE HAYES: Kathleen, can you repeat
14 what you just said.

15 COURT REPORTER: The last sentence.

16 VICTIM 7: I don't go one day without
17 thinking about my sister Johanna.

18 JUDGE HAYES: Thank you.

19 VICTIM 7: She was my world, too.

20 And Your Honor, Doug just didn't kill
21 Johanna. He killed my whole family. He should not be
22 getting out after 24 years. You know they say, oh, he
23 was a model citizen. That's what you're supposed to be
24 anyway. When you're in prison, you do the programs but
25 that's what you're supposed to do.

1 I don't think 24 years is long enough.
2 I'm going through it. Look how long it's been. I'm
3 not the same person anymore. Neither is my family.
4 None of us are.

5 Doug is the same person. He's going to
6 continue to be the same person that he is.

7 So please, Your Honor, at least let him
8 sit another 25 years. That jealousy ain't going to go
9 away.

10 And with that, I'm done.

11 JUDGE HAYES: All right. Thank you all
12 for your...first of all, everyone has got a chance to
13 speak that wanted to speak, correct?

14 VOICE: Yes.

15 JUDGE HAYES: Okay, and you were heard?

16 VOICE: Yes.

17 JUDGE HAYES: Okay. As I mentioned
18 earlier, is that the portion...I will review the
19 evidence, the witnesses and the documents that have
20 been offered. All right. I will write a decision. I
21 will issue it within 30 days. Okay.

22 Again, I mean, just so you know. The
23 question before is whether Mr. Balsewicz' parole grant
24 should be rescinded or not. That's the question.

25 It's not...I can't say another 25. It's

1 not my job. It's just about this event right here, at
2 this point, is whether the circumstances have changed
3 in this case.

4 All right. Anything else?

5 Thank you for your time.

6 VOICE: Well, can I ask a question?

7 JUDGE HAYES: Yes.

8 VOICE: Okay. So if whoever decides
9 that it should not have been rescinded.

10 JUDGE HAYES: Let me just say this. I
11 mean, first of all, I'm writing a recommendation. So
12 it's not...you know, somebody in the Parole Commission
13 at some point will have to decide whether to accept my
14 recommendation or not. All right?

15 VOICE: Okay. So if somebody accepts
16 the recommendation that says that he should not have
17 been rescinded. Does that mean he's getting out right
18 away?

19 JUDGE HAYES: I'll let...that's for the
20 people who make that decision to decide. That's not
21 mine here.

22 VOICE: Okay.

23 JUDGE HAYES: Okay.

24 Anything else?

25 VOICE: I would hope that everybody

1 would take into consideration. Think about if this was
2 your loved one. It's easy to say, oh, yeah, he was
3 rehabilitated when it's not your loved one. Take to
4 heart if this was my loved one.

5 JUDGE HAYES: I understand, Karen. I
6 understand. I've heard your testimony. I've heard
7 your statement.

8 VOICE: Okay.

9 JUDGE HAYES: All right. And we've got
10 it on the record. All right?

11 VOICE: All right.

12 JUDGE HAYES: Thank you all for your
13 time. I wish you all well. Thank you for your
14 appearance here. And again, it will be...

15 Mr. Cotton or Ms. Keckhaver, anything
16 else? Any other questions you have as far as the
17 process?

18 ATTORNEY KECKHAVER: No. Thank you,
19 Judge Hayes.

20 JUDGE HAYES: Okay.

21 VOICE: Who will actually keep us in the
22 loop with this as to what's happening?

23 JUDGE HAYES: I believe that will be the
24 Department of Corrections Victim Services.

25 VOICE: Okay.

1 JUDGE HAYES: All right.
2 VOICE: All right.
3 JUDGE HAYES: Thank you.
4 VOICE: Once we're told, we will be
5 happy to distribute the information.
6 JUDGE HAYES: Okay. Thank you all.
7 ATTORNEY KECKHAVER: Thank you.
8 VOICE: Thank you.
9 (End of proceedings)
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In the Matter of the Recommended Recission of
the Parole Grant of
Douglas Balsewicz DHA Case No. 221009-052322

I, Sharon Stremcha Gulvik, do hereby certify that, as an official reporter for the State of Wisconsin, Department of Administration, I reported the foregoing proceedings had and testimony taken on August 18, 2022, and that the same is true and correct in accordance with my original shorthand notes taken at said time and place.

Dated this 8th day of September, 2022,
Madison, Wisconsin.

Sharon Stremcha Gulvik
Official Reporter

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