



STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
**INDETERMINATE SENTENCE REVIEW BOARD**  
P.O. BOX 40907, OLYMPIA, WA 98504-0907

**DECISION AND REASONS**

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NAME: McVay, Michael  
DOC #: 628500  
FACILITY: Washington State Reformatory  
DATE OF HEARING: August 7, 2019  
TYPE OF HEARING: .100  
PANEL MEMBERS: Lori Ramsdell-Gilkey, Elyse Balmert & Tana Wood  
FINAL DECISION DATE: August 26, 2019

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This matter came before the above named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for a .100 hearing in accordance with RCW 9.95.100. In preparation for the hearing, the Board reviewed Mr. McVay's ISRB file. Mr. McVay appeared in person and was represented by Attorney Darrel Lahtinen. Testimony was provided by Department of Corrections (DOC) Classification Counselors (CC) Beth Anderson and James Leffew.

At sentencing, the Judge recommended 25 years and the prosecutor recommended 30 years.

**LAST BOARD DECISION:**

At the December 6, 2016 hearing, the Board found Mr. McVay not parolable but added no time to his minimum term, which at that time was September 27, 2019. The Board recommended Mr. McVay enter into and complete the Sex Offender Treatment and Assessment Program (SOTAP) and Aftercare if possible. The Board agreed to see Mr. McVay before his next PERD if he did so, and if he submitted a request for an early hearing.

**CURRENT BOARD DECISION:**

Based on the requirements of RCW 9.95.009(3) and RCW 9.95.100 and the totality of evidence and information considered by the Board, the Board finds that Mr. McVay is not parolable and add 60 months to minimum term on counts I, II and IV and matches minimum term to the maximum term of 60 months on count III

**NEXT ACTION:**

Schedule a .100 hearing approximately 120 days prior to his PERD. An updated psychological evaluation will be required.

**REASONS FOR DECISION:**

**This was a deferred decision following a full Board discussion, using a structured decision-making framework that takes into consideration; the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.95.100, the Board finds Mr. McVay not parolable for the following reasons:**

- **Mr. McVay is not fully rehabilitated and a fit subject for release**
- **Mr. McVay has recently engaged in concerning, risk related behavior towards a female staff which resulted in a period of segregation.** He repeatedly told a female Correctional Officer, over a nine month period that he had observed her performing a sexual act on an inmate. He also told other inmates this CO was engaging in sex acts and indicated he wanted in on it. Several inmates reported this to staff when they became concerned for the CO's safety. Mr. McVay claims he spoke to the CO about it several times because he liked her and did not want her to lose her job. He also indicated he was jealous that she was friendly with other inmates but not with him. There is no evidence this CO was engaging in inappropriate activity with any inmate.
- **As a result of the behavior towards the female CO Mr. McVay was removed from the**

**Aftercare portion of the SOTAP at Twin Rivers Unit and transferred to the Washington State Reformatory where this treatment is not available.**

- **Static 99R and Stable 2007, widely used actuarial tools for assessing risk, both indicate he is high risk for sexual reoffending. He is a Level 3/High Risk offender for community notification purposes per the End of Sentence Review Committee (ESRC) report.**
- **Upon the recent completion of crime related treatment Mr. McVay continues to be assessed as having high ongoing treatment needs in many areas, to include: Significant Social Influence, Capacity for Relationship Stability, Hostility towards Women, General Social Rejection, Lack of Concern for others, Poor cognitive problem solving, Sexual Drive-Preoccupation, Deviant Sexual Interests, Cooperation with Supervision, and Sexual Entitlement.**
- **A recent psychological evaluation concludes “Mr. McVay’s dysfunctionally disordered personality remains unchanged.”**
- **Additional risk assessment tools used in the psychological evaluation show the following: The HCR-20 rates future risk management problems as high; VRAG-R places him in the highest risk category for violent re-offending/Bin 9; PCL-R indicates he meets the cut off score for psychopathy; and the SAPROF which addresses factors that may help reduce risk indicates this is low to moderate at best.**
- **His overall assessment places him in the high range of risk to engage in behavior that would result in recidivism.**
- **Two prior releases resulted in multiple new sexual offenses within a short period of time.**
- **Mr. McVay’s risks cannot be managed safely in the community.**

#### **RECOMMENDATIONS:**

Mr. McVay should participate in available offender change programming to include Thinking for a Change, Redemption and additional SOTAP Aftercare if the program believes it might benefit him. He may need to be transferred to a different facility in order to accomplish this. If a therapeutic disclosure has not been completed with his wife, the Board would hope he completes

that process as well, if the SOTAP staff are available to assist in this. The Board would like to see much more detailed release plan when next seen.

**JURISDICTION:**

Michael McVay is under the jurisdiction of the Board on a May 13, 1986, conviction in Whatcom County Cause #83-1-00363-9 for Rape in the First Degree Count I, Burglary in the First Degree Count II, Taking a Motor Vehicle Without Owner Permission (TAMVWOP) Count III, and Kidnapping in the First Degree Count IV. These counts all run **concurrent**.

The time start on this conviction is September 27, 1999 as a result of the Board previously transferring Mr. McVay from King County Cause #83-1-03234-9 to this Whatcom County Cause on his PERD of the King County Cause. The Board made it clear at that time, that their decision did not indicate that the Board felt that Mr. McVay was safe to be at large in any way. The minimum term was set at 20 years, aggravated up from a Sentencing Reform Act (SRA) range of 98 to 130 months for the Rape First and Kidnapping First; 36 to 48 months on the Burglary First, and two to five months for the TAMVWOP. The maximum term is **Life** on Counts I, II, and IV. Mr. McVay has served approximately 238 months in prison on this current conviction and an overall total thus far of 431 months.

**OFFENSE DESCRIPTION:**

Approximately three days after committing the rape and kidnapping in King County as described below, Michael McVay broke into an unoccupied residence in Ferndale, Washington. While he was in the residence a woman, who was a friend of the homeowner, entered the house and he confronted her while armed with a hammer. He tied the victim up then raped her. He untied the victim at some point, directing her to cook him breakfast. While armed with a knife he forced her to drive him from the house. He released her many hours later and took her vehicle.

**PRIOR SEXUAL OFFENSE CONVICTIONS:**

**King County Cause #83-1-03234-9; Rape 1<sup>st</sup> Degree Count I, Kidnapping 1<sup>st</sup> Degree Count II** - Mr. McVay was on parole on a 1973 Rape charge for approximately two months, when on September

18, 1983, he abducted an unknown woman at a bank cash machine. He forced the victim into her own vehicle, insinuating he had a gun. He had the victim drive him to a parking garage where he had left another vehicle. He then forced the victim into the backseat of that vehicle and tied her hands behind her back. He drove a short distance then pulled into an alley and forced the victim to perform fellatio. He then drove north eventually ending up in the Bellingham area. He finally took the victim to a residence in Ferndale, Washington where he tied her to a bed. At one point he removed the victim's pants and tried to rape her again. He strangled her and threatened her with a knife when she tried to fight him off. He was interrupted by a noise at the door. For unknown reasons he then untied her and allowed the victim to telephone her sister to come pick her up.

**Whatcom County Cause #8249; Count III, Rape** – On March 14, 1973, Michael McVay age 17, and his younger brother entered a home while armed with knives, tied up a male and abducted a young woman. The victim was forced to drive Mr. McVay and his brother away from the home. Michael McVay later forced the victim to undress and raped her while threatening her with a knife. They eventually left her naked and tied up outside of a tavern. Michael McVay was remanded to adult court and pled guilty to Count III, Rape and additional counts of Assault First Degree and Abduction were dismissed. He was sentenced to a maximum of 20 years. He first paroled on this case on January 31, 1978.

**ADDITIONAL RISK RELATED BEHAVIOR:**

After paroling in early 1978, Michael McVay abducted an unknown woman in Whatcom County on May 13, 1978. The victim was sitting in her car in the early hours of the morning waiting for a tow truck to come and charge the battery of her vehicle. At knifepoint he forced her to sit and wait for the tow truck to jump the vehicle, then had her drive him for some distance before having her pull over and forcing her to fellate him. He then made her drive him to Bellingham before allowing her to leave in her car. He was charged with Kidnapping and Rape as a result of this behavior. He went to trial and the result was a hung jury. The victim indicated she could not

go through another trial and the charges were dismissed. His parole however, was revoked and he was given a new minimum term of 5 years. Mr. McVay admits he committed this offense.

After Mr. McVay paroled for the third time on **Whatcom County Cause #8249; Count III, Rape** on July 29, 1983 he promptly absconded from supervision. He then committed the earlier mentioned rapes in King and Whatcom Counties. He promptly left the state and travelled to Idaho. While still on abscond status, he was arrested twice in Idaho, for allegations of Rape that are similar to his prior offenses and involved the use of a knife. After being acquitted of the first rape due to the victim's "mental health" issues, he was released and within weeks he was arrested for yet another rape. That case was dismissed without prejudice and Idaho indicated they would await the outcome of prosecutions in Washington State. It appears they took no further action as Mr. McVay has a Life maximum on several of the new counts in Washington State.

**PROGRESS/BEHAVIOR:**

Classification Counselor Beth Anderson testified that Mr. McVay is a recent addition to her caseload. He was transferred to the Washington State Reformatory segregation unit from general population at the Twin Rivers Unit due to safety concerns regarding his interactions with and comments to a female Correctional Officer (CO). He is not currently working but is on the job list. His last serious infraction was in 2015 when he refused a directive from staff to report to his cell during a verbal confrontation. CC Anderson stated Mr. McVay is married, however his wife has not been to visit in quite some time. She recently received a letter from his wife that states she remains supportive of her husband. Regarding release CC Anderson stated that Mr. McVay mentioned the possibility he would be civilly committed.

Classification Counselor James Leffew testified he supervised Mr. McVay prior to his transfer. Since his last hearing he completed Community Transition, Making it Work, Bridges to Life, SOTAP, CI Proficiency, and was employed as a groundskeeper and QA person in the kitchen until he received an injury. He discussed releasing to one of the House of Mercy transition homes in

the Auburn area if possible. Mr. McVay claims to have his own non-profit called “First Step Christian Organization” that he established with the help of his ex-wife. He used to “preach” to the public via telephone and a speaker his wife provided. Prior to his hearing Mr. McVay began going to different staff asking them what they thought of him. CC Leffew informed him that he believes he still has some issues with anger. He wanted to know what CC Leffew was going to say about him and if he was going to recommend release. CC Leffew advised him that he never makes such a recommendation as that is not his job.

CC Leffew testified that when he arrived at work one day, four inmates came to him to express their concern with Mr. McVay’s focus on a particular female CO. They reported Mr. McVay was telling inmates that this CO was having sexual contact with inmates and that “he wanted in on it”. The CO herself has expressed concerns about Mr. McVay frequently attempting to converse with her about God and politics and other such subjects. She has refused to engage with him. She indicated she does not feel safe around him and that if he is released she will always be watching over her shoulder. Mr. McVay was transferred out of that living unit and sent to segregation at the Washington State Reformatory. An investigation was completed and no infraction was issued.

Mr. McVay stated he walked in on this CO once and saw her giving an inmate a “blow job” in the staff breakroom. He said that he approached her on four different occasions telling her that these kinds of rumors were floating around. Mr. McVay claimed the behavior went on for at least nine months. He claims he continued to address it with her because he liked her and didn’t want her to lose her job. He did not understand how this type of behavior could be seen as intimidation or strong-arming etc. He admits he felt rejected by her because she was friendly with other inmates but not so much with him. She would “shut him down”. He said, “I was jealous. I knew she was having sex with other inmates.” He admitted he discussed this with other inmates as well. He then claimed that the reason the inmates went and met with Mr. Leffew was in an effort to protect the CO from his allegations as one of the inmates telling on him was having sex with the CO. He acknowledged he did not report it to staff until the very day he was transferred to the

Washington State Reformatory, again, because he liked her and didn't want her to get in trouble. Mr. McVay admitted he does not deal well with rejection, particularly from women.

Mr. McVay was asked to explain how things went so badly the last time he was paroled. He said, "I was a sick man. I was out of control in my mental processing of functioning with women." He stated that due to his continuous incarceration he did not know how to socialize or communicate with women. He was asked why he couldn't just stay away from women for a while and focus on work and other obligations upon release or talk to his married brother about how to meet women. He stated he was embarrassed by his lack of skills and knowledge.

Regarding his current offense, he stated he had sexual urges and didn't know what to do with them. Mr. McVay admitted that on the date of the offense his *intention* was to find a woman he could rape. He acknowledged abducting the victim at a cash machine. He admitted raping her and said he held her captive a total of about 10 hours.

Mr. McVay claims the SOTAP Treatment summary is full of errors. He stated a prior treatment provider went over the treatment summary with him and pointed out all the problems and inconsistencies. He also said this same person advised him to contact the news media. This Board Member advised him that I did not believe him, neither did I believe his story about the CO having sex with inmates.

Mr. McVay has not had EFV's with his current wife. (She is the ex-wife of a previous cellie.) He said he was turned down when they first married because they were not married before he came to prison. He admitted he has not applied for EFV's since the initial denial claiming he didn't know he could do so. For one as familiar with the state prison system as Mr. McVay, this is hard to believe. There were allegations he was having problems in his marriage which he denied. He did admit that a couple of years ago when he was mad at his wife he took her off of his visiting list. He claims she has not visited in a long time because she had a serious car accident.

SOTAP Supervisor Stebbins stated that Mr. McVay was in core treatment for 13 months with Specialist John Crowley. She often observed the group sessions. She agreed that Mr. McVay was very knowledgeable of the material presented but his ability to internalize it was lacking. Ms. Stebbins stated a prior treatment provider did discuss Mr. McVay's summary with him and told him she would not change it when he asked her to do so. She stated there is still work for Mr. McVay to do.

Mr. McVay is an incredibly high risk individual. He does deserve credit for the overall positive behavior he has exhibited in prison for many years. Other than the very concerning issue with the female CO, he is generally well behaved, has few serious infractions for man who has been incarcerated for so many years, has maintained employment throughout most of his incarceration and participated in the crime related treatment the Board previously recommended. Mr. McVay was encouraged to spend less time disputing comments made about him in regards to his treatment participation and more time focused on what he can do to more fully internalize the concepts he learned in the SOTAP and other programs.

LRG: ts

August 28, 2019

August 28, 2019

August 28, 2019

cc: MCC-WSR  
Attorney  
File/ts



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P.O. BOX 40907, OLYMPIA, WA 98504-0907

TO: Full Board

FROM: Lori Ramsdell-Gilkey, Elyse Balmert (Teresa)

RE: MCVAY, Michael 629500

Panel recommends: Not parolable, add 60 months to minimum term on counts I, II and IV and matches minimum term to the maximum term of 60 months on count III

Next action: Schedule .100 120 days prior to parole eligibility review date (PERD).

<b>Agree</b>	<b>Disagree</b>
<b>Lori Ramsdell-Gilkey 8-26-2019</b> <b>Elyse Balmert 8-26-2019</b> <b>Jeff Patnode 8-26-2019</b> <b>Kecia Rongen 8-26-2019</b>	