



BILL WATCH

Here are a few of the more important pieces of legislation that could potentially impact lifers that LSA is watching, supporting or opposing this legislative session. The status of many of these bills changes quickly, but as we go to press this is the current situation; most bills are in various committees waiting consideration and votes.

AB 620: Would require CDCR to create a 4-year pilot program in 4 prisons to offer trauma therapy and treatment to those inmates who have suffered severe trauma in their lives. We support this bill, currently in Assembly Appropriations Committee.

AB 1065: Would increase the gate money given inmates on release from prison from the current \$200 to \$300. We support this bill, currently in Assembly Appropriations, and appears to be stalled.

AB 1308: Would extend the provision of Youth Offender Parole Hearings to those who were under 25 years of age at the time of their crime. Currently the cut off age is 23. We support this bill, passed by Assembly Public Safety and currently in Assembly Appropriations.

AB 1448: Would codify the elderly parole process, making it a law rather than simply an agreement between the Board of Parole Hearings and the Three Judge Panel. The qualifications will be the same as currently in operation by the BPH, 60 years and older and 25 or more years of incarceration. We support this bill, currently in Assembly Appropriations

SB 343: Would allow inmates 70 years, those 70 years and older with chronic and debilitating medical conditions to be moved to a medical facility, and those 60 and older with chronic debilitating medical conditions to petition CDCR for consideration of release on parole. We support this bill, currently in Senate Rules Committee.

SB 394: This bill would allow those sentenced to LWOP for crimes committed before the age of 18 to be automatically seen by the Board of Parole Hearings after 25 years of incarceration. Current law requires juvenile LWOPs to request a recall of sentence from the sentencing court; this would make that action automatic. It does not increase the juvenile LWOP age past 18 years. We support this bill, currently in Senate Appropriations Committee.

All bills must pass several committees in their house of origin, then pass a vote of the entire body on the floor of that body. The process is then repeated in the second legislative bodies; all bills must pass both the Assembly and the Senate. Passed bills must also be signed into law by the Governor, who may sign or veto any piece of legislation.



BE CAREFUL WHAT YOU SAY—EVEN IF YOU’RE A PSYCHOLOGIST

Sometimes it doesn’t pay to bait the bear. LSA has long been vigilant in working to replace, revamp or restructure the Forensic Assessment Division (FAD) and we haven’t been shy about bringing our concerns to the BPH and other agencies. Frequently this is at the BPH monthly business meetings, where the head FADer, Dr. Kusaj, is often present. That, of course, doesn’t stop us from offering our concerns.

And it appears we may have struck a nerve. At a recent BPH business meeting, in addition to his usual statistical recitation of how many CRAs were assigned, completed and yet to be assigned, the good doctor felt compelled to respond to our frequently expressed concern and skepticism over the training of FAD clinicians. Recounting the personal involvement of several individual FAD psychologists in dealing with various special populations, Kusaj sought to assure everyone that FADers are well trained in their appropriate specialties. Basically, show the warm and fuzzy side of the FAD.

Interesting perhaps, but the examples offered were not especially probative of qualifications of the clinicians in dealing with lifers. And then Kusaj made a colossal miscue; he noted the increase in grants of parole over the last several years and suggested, no stated, that the FAD could claim partial credit for that increase.

Oh, really.

That certainly caught our attention, because frankly, we believe just the opposite is likely; the FAD reports are often used to support parole denials. We couldn’t let that go unanswered. Below is our response, presented at the meeting, to Dr. Kusaj’s attempt to bless the FAD. And for good measure, attorney Marc Norton also took umbrage at Kusaj’s statement, providing his own rebuttal to Kusaj’s claim. In part Norton called for the dismantling of the FAD and a return to the practice of allowing clinicians in the prisons, who deal with inmates personally and continually, to evaluate their risk.

Makes sense to us. Here's the way we see it:

[W]e do believe the FAD is inadequately and inappropriately trained, among other issues. Perhaps our opinion would change if the FAD training was as transparent as the commissioner training has become. The FAD continues to operate with a black box mentality, reminiscent of the culture of the BPH prior to the changes under the current administration. The FAD is just about the last bastion in CDCR, with the exception of the ISU, of the hide-everything-from-the-public attitude. Very interesting in a group of psychologists.

So long as errors in CRAs, such as those brought forth yesterday [during comment section of the BPH meeting], and a continual list of similar errors we could detail for hours, continue to be made, with no real accountability for the FAD clinicians, we will continue to be not only skeptical but down right militant. Currently there is no real recourse for inmates who feel they have been unfairly treated by the FAD. Requests for new CRAs, highlighting errors in CRAs, dispute over what was said continue to amount to no more than letters back and forth. Even the State Board of Psychology, supposedly the watchdog of clinicians for all the public, refuses to even consider or investigate complaints against FAD psychs, opining members of the FAD are CDCR employees and not practicing and thus liable to do harm in the public arena.

And yet they can continue to do harm. Let's be frank; what is at stake here are lives and liberty interests. And while the FAD continues to botch the facts in a CRA, sidestep consideration of YOPH factors with parsing language and misemploy language and statement of inmates with no accountability, that harm cannot be realistically estimated let alone repaired.

The FAD was created on a misrepresentation and that misbegotten beginning has never been accounted for or repaired [See The FAD: Flawed and Dubious, CLN Issue #73]. To suggest that the FAD is in any meaningful way contributory to the increase in parole grants over the last several years is ludicrous bordering on bizarre.

Instead, commissioners tend to use the conclusions of the CRA to support whatever their decision is. As Dr. Kusaj has said, most prisoners receive a moderate rating; and the language in transcripts reveals just how useful that moderate label is, with commissioners noting in a denial that a moderate assessment is 'not supportive of parole,' while commenting in a grant that a moderate rating 'supports suitability.' What it is truly indicative of is anyone's opinion.

We're aware the board would very much like to put the FAD issue to rest, but until there is a way to build real accountability for their work and actions that rest is unlikely. How to do that?

- *Open the FAD training to the public—we're not too stupid to understand the topics and information given.*
- *Record the CRA interviews to be sure statements are not used out of context and are accurately reported.*
- *Provide real remedial actions for errors in CRAs as well as accountability and responsibility for any clinicians who continually make those errors.*
- *Convene a truly independent review panel to evaluate both the FAD's past work, current practices and training and make recommendations for improvements.*

Such actions would do more to elicit confidence in the work product of the FAD than anecdotes of good works and warm and fuzzy backgrounds of individual clinicians.

Especially when we see the results of that work product.

Footnote: BPH Legal Counsel Jennifer Neill assures us that she has received 'several' notices from the state Board of Psychology indicating they are investigating claims against FAD clinicians, though she provided no numbers. However, we have personally contacted the psychology board, only to be

told it does not review FAD clinicians and more to the point, several inmates have informed us they have written to file such complaints only to be told they could not do so by the Board of Psychology. If you're one of those inmates, please send us a copy of letter from the psychology board either confirming or denying they would investigate your concerns.



Recently released Richard Shaputis with Attorney Diane LeTarte

SHAPUTIS, ACT 3

There are a few case names that reverberate through lifer circles, some from the bad-old-days, some that lead to a change in those bad-old-days. Lawrence (Sandra Lawrence, long released and living life), Dannenberg (same, and notably active in CLN and other activities) and Shaputis, both Shaputis I and Shaputis II.

Now, the time has finally come for Act 3 of Shaputis: Freedom.

Aided by Attorney Diane LeTarte, Richard Shaputis, age 81, was found suitable for parole in November, 2016. He was released from CIM in Chino on March 9, 2017 and after an initial period in transitional housing will join his wife in Southern California.

Nothing feeds our soul and spirit here at LSA like seeing lifers come home, most especially when they have waited long years and suffered setbacks. We add our kudos to Attorney LeTarte, whom Shaputis thanked with a message that noted: "Diane it was your constant reminder that I should not give-up. Again Thank You for believing in me and standing up to the hardest parole hearing I have ever had."

INFORMATION BITES

It is expected that the number of BPH commissioners will shortly expand once again, bringing the number of board members to 15. During a report on Significant Events at the board in 2016 Executive Director Jennifer Shaffer noted the expansion will allow the commissioners to keep up with the expected influx of hearings due to Third Strikers entering the hearing cycle as well as the possible impact of bills now before the legislature that would bring more prisoners into YOPH hearings. Any new commissioner will be appointed by the Governor, subject to confirmation by the Senate.

In 2016 the BPH reviewed Over 1,000 3 year denials as part of the Administrative Review process, of which over 80% were granted an advanced hearing. Inmates submitted 729 Petitions to Advance, about 70% of which were granted.

Of just over 5,000 hearings scheduled by the BPH in 2016, 28% were for initial hearings, 42% were YOPH proceedings and 19% were for elderly parole consideration. The board conducted over 4,000 consultation hearings and the FAD performed over 3,300 risk assessments.



IT'S ALL IN THE PERSPECTIVE

Recently in a presentation at the BPH business meeting victims' advocates, in urging the commissioners to be more mindful and considerate of victims and victim family members, deplored the stereo-types often flung at various individuals and categories, including victims, advocates and law enforcement. They urged the commissioners not to allow those stereotypes to color their view of victims appearing at parole hearings.

We agree. Stereotypes are not conducive to clear thought, good decisions or, for that matter, real life. The list presented offered up three categories of individuals and stereotypes often connected to those groups. Some were on point, others missed the mark.

But more importantly, left out of this list of misbegotten monikers were stereotypes often hurled at inmates, both during parole hearings, often by victims, and in the public arena. So just to be fair, to even the playing field, we thought we'd round out the list.

The first 3 columns are lifted from material provided by the victims' groups; the last are appellations we've often heard directed at inmates.

ADVOCATE	VICTIM	POLICE	PRISONER
Pushy	weak	love donuts	evil
Angry	helpless	ill-tempered	monsters
Former victim	guilty	love guns	never sorry
Biased perspective	angry	power trip	uncaring
Combative	vindictive	lacking training	mentally ill
Unreasonable	hateful	control freaks	dangerous
Man-haters	liar	corrupt	liar
Tunnel vision	hysterical	aggressive	vengeful
New age tree hugger	asked for it	arrogant	not sorry

While some characteristics may be true of some individuals in all categories, none are true of all members of any category. And that's what's important to remember. As we should not view all victims as angry, vindictive and hateful, so we (and 'we' means everyone) should not view all inmates as liars, dangerous, monsters or never sorry. What works for the goose, works also for the gander.



KNOWING YOUR TRIGGERS

Among the questions often asked by commissioners at hearings is “What are your triggers?” But they don’t stop there. They want to know what are your internal and external triggers, do you know the difference and do you know how to deal with them.

How do you decide what’s an internal trigger and what qualifies as an external provocation, because that’s what triggers are; things that provoke you to act or react in some manner. The easy answer is in the words internal and external; in and out.

Internal triggers are those things that come from within you, typically feelings or emotions. Some internal triggers are stress, loneliness, fear, insecurity, embarrassment, even happiness and surprise. In the past, if you’ve dealt with these emotions by striking out, say, even committing a crime, the board is going to want to know that you recognize that when you feel stressed or embarrassed, you can react in an anti-social way. And that you know how to recognize not only that feeling, but what it can lead to and how to head off those events.

External triggers can be things in your surroundings; the smell of certain substances, being in some surroundings or places. And while external triggers may seem easier to identify and control (don’t go to a bar if you get stupid when you drink, don’t hang around smokers if you’re trying to stop, don’t go back to the old neighborhood if you’re trying to break from the gang), those same external triggers can, in turn, set in motion some of your internal triggers.

Being in a bar can make you miss the camaraderie of your old drinking buddies (happiness), being in unfamiliar surroundings can make you feel alone and insecure (fear). Sounds like and can be a vicious circle, which makes it more important that you can identify, discuss and deal with both your internal and external triggers.

In addition to being able to identify and discuss your triggers, you’ll have to know your coping mechanisms and strategies as well. How will you deal with anger, when it arises (and it will)? What do you do to relieve stress brought on by events, even good events? How can you get yourself away from an external trigger and at the same time deal with any internal emotions and urges it might cause?

As complicated as it sounds, it just means knowing who you are now, what your vulnerabilities are and how to deal with them. It’s part of your change, growth and rehabilitation, and part of your going home.