



JULY, 2010

**LIFER-LINE**

**VOL. 1 ISSUE 4**

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE

### **OFFICE OF INSPECTOR GENERAL FINDS BPH TRAINING, OVERSIGHT LACKING**

In a report released July 2, 2010 the Office of the Inspector General identified numerous areas of concern and shortcomings in Board of Parole Hearing operations. The errors identified involved both personnel training and implementation of reports.

*Life Support Alliance* believes these areas of impropriety merit further investigation by the OIG and legislature and remedial action by the BPH. The identified areas of concern, we believe, are adversely impacting the lifer population in California prisons by contributing to the continued denial of parole dates to suitable lifers.

As identified by the OIG report these areas are

#### **Lack of training of Parole Commissioners, Deputy Commissioners and psychologists.**

The California Penal Code requires commissioners and deputy commissioners to receive 40 hours of training within 60 days of their appointment and 40 hours each subsequent year. Although some of the commissioners received the mandated initial training, **NONE** of the commissioners serving for more than a year received any of the required subsequent training.

Only a **scant 18%** of recently hired deputy commissioners received the initial training and virtually none any of the follow up training. **NONE** of the senior psychologists, charged with overseeing and checking the accuracy of psychological evaluations, received the legally required training.

#### **Psychological reports are replete with unrecognized and uncorrected factual errors.**

**100%** of psychological reports from 2009 sampled by the OIG contained at least one **factual error**, often as basic yet vitally important as the wrong name for the inmate under consideration. The true number of errors in the reports cannot be determined because the commissioners did not correctly complete reporting forms. Yet commissioners say they believe few psychological reports contain errors.

#### **No tracking or accountability of senior psychologists work time, productivity or reliability.**

Senior psychologists work from their homes and are **not required to account** for the number of **cases reviewed, hours worked** or **quality** of their work.

Also troubling, the BPH has no way of tracking whether or not any of the numerous contract psychologists hired to perform psychological evaluation on lifers prior to parole hearings **exaggerate risk** assessments, crucial to a lifer's parole prospects.

#### **Possibility of hearing postponements due to late psych evaluations.**

Contracts for more than a dozen contract psychologists ended on June 30, 2010 and CDCR/BPH has no plans to renew or hire new psychologists. Because of this staff reduction BPH may not have enough psychologists to complete the required psych evaluations of prisoners scheduled for parole hearings from October through the end of 2010. This has the potential to cause more postponements and could lead to a backlog in hearings.

In all, the OIG was concerned enough about these findings to hire an independent psychologist to assess the accuracy and validity of the psychological evaluations ordered by the BPH. The cost for this will, of course, be borne by the taxpayers of California, further evidence of the simple dollars and sense toll the improper actions of the BPH take on everyone.

The full 30-page report, SPECIAL REPORT *THE BOARD OF PAROLE HEARINGS PSYCHOLOGICAL EVALUATIONS AND MANDATORY TRAINING*, can be found at the OIG website, <http://oig.ca.gov>.

LSA urges all family members to access this revealing report and make your prisoner and his/her attorney aware of the findings.

## LSA MEETS WITH BPH EXECUTIVE DIRECTOR

Representatives of Life Support Alliance met on June 24, 2010 with Executive Director of the BPH Martin Hoshino. The meeting was at the suggestion of Darby Kernan, Legislative Analyst for CDCR Sec. Matthew Cate and was attended by both Ms. Kernan and George Giurbino, Assistant Director Adult Operations, CDCR, in addition to Mr. Hoshino. In summary:

- Mr. Hoshino maintained he has little control over the decisions made by the commissioners and has no part in selecting or vetting the potential appointees.
- He is uncomfortable with our assertion of lifer recidivism at 1-2% though he did not maintain our figures were incorrect. He said he was unaware of any academic studies showing a low lifer recidivism rate; LSA knows of several such studies and left a copy of such a study with him, along with offers to provide information on finding others.
- He emphasized the BPH's "hugely increased" rate of parole grants since the 2007 *Lawrence* decision, saying the rate of grant had "quadrupled." While a report from the Office of Inspector General recently put the percentage of lifer parole grants in 2009 at 16%, up from 4% in 2007, the increase came only after CDC lost a lengthy and expensive court battle (*Lawrence*.) and even 16% is far from the 50% usually ascribed to the meaning of "shall normally set" a parole date as written in law.
- He asserted training of the commissioners was improving, but the results of an OIG report (see elsewhere in this newsletter) indicated the training of commissioners could hardly be more incomplete, and the actual content of the training is also lacking.
- In response to a question about possibility of prisoners' family members qualifying as victims under the language of Marsey's Law (have suffered emotional, psychological and/or financial injury as a result of a crime) Hoshino said that was not his interpretation but acknowledged that suggestion has been recently raised. If it were to be determined prisoners' family members could indeed fall under the literal interpretation of victims under Marsey's Law it would allow family members to attend parole board hearings for their loved ones and speak in support of parole, an opportunity that is now denied both families and prisoners.
- Mr. Hoshino offered to answer questions submitted to him regarding actions of the BPH, and a list of four questions was sent to him on June 28.
- The questions :1) how many writs of BPH denials are currently pending in the courts, 2) in the past 2 years how many writs have been adjudicated in favor of the plaintiff (prisoner), 3) over the past 3 years how many commissioners have resigned prior to confirmation and 4) the budget of the BPH, broken out of the CDCR budget.
- We expect a response by the end of July and will publish an update in our next newsletter.

## INFORMATION ON COMMISSONERS, PSYCHOLOGISTS URGENTY SOUGHT

LSA's primary goal is to impact the performance and make-up of the Board of Parole Hearings. In order to accomplish this goal we need factual information on the performance, attitude and actions of the commissioners, deputy commissioners who hear lifer paroles and the BPH psychologists who conduct the psychological evaluations prior to the hearing date. It is our position and our fervent belief that errors in fact, ethics and performance are made time and again by one or more of these officials deciding the fate of lifers.

But we cannot rely on hearsay. We must have facts and specifics. If you feel you or your prisoner has been unfairly judged or evaluated at any hearing since 2007 we want the facts. It is not necessary to reveal the prisoner's name or CDC number. The information we need can be retrieved by a totally confidential third party investigator. What we do need is the name of the officials, date of the hearing, institution and a short list of other information. An anonymous questionnaire is available from LSA on our Facebook page or by emailing or postal mailing a request to us, and on Page 4 of this newsletter.

But we need this information right away, now, ASAP if we are going to be able to adequately prove our point. This is a call to action and arms. If you truly want to help in this fight—respond now!

## IN THE CAPITOL THIS WEEK

With the legislature in recess and many legislators spending the past few weeks in their home districts, the atmosphere in the capitol halls has been a bit quieter than usual. While budget negotiations are on-going, there are no committee hearings, bill amendment meetings or scramble for votes. All that hustle and bustle will return in a few weeks. And we will be ready.

Legislators' staff members, however, remain on duty and *LSA* met with several legislative offices in the last two weeks to be sure all Senators, Assembly members and their staff are aware of the OIG report and its critical findings on the BPH. If any legislative office was not aware of the report, we have been happy to bring it to their attention and leave them with a synopsis of the OIG findings, along with an analysis of what those findings mean to lifers and the California budget.

This week Gail and Vanessa attended the Executive Board meeting of the BPH, a monthly meeting where all commissioners are present to be briefed on legal actions, hear public comments and hold en banc hearings. Those portions of the meeting dealing with litigation and en banc hearings are closed to the public, though supporters of prisoners under consideration for compassionate release or en banc decisions may speak to the board during the public comment session.

Also present to remind the board of their point of view were members of victims' rights organizations. And while their stories are heart-rending, the stories of the prisoner families who came to plead for compassion and fairness for their loved ones were no less wrenching.

On behalf of lifers and their families *LSA* asked the BPH commissioners and Executive Director Martin Hoshino for their comments or reactions to the shortcomings of the BPH noted in the OIG report, as well as any plans underway to correct those problems. Mr. Hoshino replied the BPH response could be found in Sec. of Corrections Matthew Cate's letter of response, contained in the report. We have read the letter and found it to be a rather banal, formulaic "thank you for showing us the problem, now we'll fix it, but we won't say how or when" response. Hardly reassuring.

We also asked Mr. Hoshino if he felt the near total lack of training of commissioners, deputy commissioners and psychologists highlighted in the OIG report might have had any adverse impact on lifers appearing before such an ill-trained board. In response the Executive Director said he would be happy to meet with *LSA* to discuss the situation but did not want to "get into a question and answer session in a public meeting." We will be happy to meet with Mr. Hoshino, but, whatever his response, *LSA* supporters may be assured we will publish that information. Stay tuned.

## DONATIONS, HELP AND SUPPORT

*LSA* does not solicit financial support, nor do we have a membership fee. This is largely due to some unsatisfactory situations involving a few other prison reform/prisoner rights groups. We do not solicit donations, but we do gratefully accept financial support. We recently received a very kind donation from a resident of Tennessee, who has a childhood friend currently a lifer in one of California's women's prisons.

Postage to mail newsletters into indigent prisoners and respond to prisoner letters is one of our main expenses, along with printer cartridges and reams of paper to produce the many position papers, fact sheets and letters in support or opposition to bills, and monthly maintenance of the website.

If you would care to make a donation toward these expenses, please mail any contributions to **LSA PO Box 3103, Rancho Cordova, Ca. 95741**. There are other ways you can help us. Print the newsletters and updates and send to any inmates you are acquainted with. If you would like to "adopt" an indigent inmate to mail the newsletters to we will be happy to provide you with names and addresses, or the donation of postage stamps is also very helpful.

We hope to organize a meeting of supporters and interested parties in late summer and at that time there may be a need for "in kind" support of such items as snacks, drinks, note pads and other miscellaneous minutia. If this meeting comes to fruition we will put out a call for assistance.

**REVIEWING ACTIONS OF COMMISSIONERS, DEPUTY COMMISSIONERS AND PSYCHOLOGISTS IN LIFER PAROLE HEARINGS, 2007 TO PRESENT**

This is an anonymous questionnaire. It is not necessary to disclose the name or CDC number of the prisoner who appeared before the parole board. If you wish to reveal that information it will be kept confidential.

LSA has been given the opportunity to make use of a legal and confidential third party investigatory team to review parole denials with an eye toward improper decisions, comments, attitude and demeanor, misstatements of fact and other possibly egregious errors committed by the BPH in hearings.

Using the general information of date of the hearing, institution where the hearing was held, and names of the commissioner and deputy commissioner sitting at the hearing this team will access several days of hearing transcripts, thus obscuring the target transcript from identification.

Detail provided such as reasons for denial, comments/statements of the board will point the team toward problems to look for; these problems are often found in other than the target transcript, exhibiting a pattern of improper decisions which can be highlighted at confirmation hearings and other actions. This same procedure can be used for psychologists preparing the pre-hearing evaluations.

Please provide as much detail as possible, use additional sheets of paper if desired. We will fight this battle on behalf of all lifers, but you must give us the tools to do so. **Mail to Life Support Alliance, PO Box 3103 Rancho Cordova, Ca. 95741.**

NAME (Optional) \_\_\_\_\_ CDCR # \_\_\_\_\_  
(Optional) \_\_\_\_\_

DATE OF HEARING\* \_\_\_\_\_ INSTITUTION\* \_\_\_\_\_

COMMISSIONER/DEPUTY COMMISSIONER\* \_\_\_\_\_

OUTCOME\* \_\_\_\_\_ LENGTH OF DENIAL\* \_\_\_\_\_ INITIAL/SUBSEQUENT \_\_\_\_\_

REASONS FOR DENIAL\* \_\_\_\_\_

EVER BEEN FOUND SUITABLE/WHEN\* \_\_\_\_\_ REASONS PREVIOUS DENIAL \_\_\_\_\_

STATE/PRIVATE ATTORNEY \_\_\_\_\_ ATTORNEY NAME \_\_\_\_\_

DATE OF PSYCH EVAL.\* \_\_\_\_\_ RISK LEVEL\* \_\_\_\_\_ PSYCH NAME\* \_\_\_\_\_

RISK ASSESSMENT CHANGED FROM PREVIOUS HEARING \_\_\_\_\_ PREVIOUS RATING \_\_\_\_\_

DO YOU FEEL COMMISSIONERS EMPHASIZED NEGATIVES/IGNORED POSITIVES \_\_\_\_\_

IMPROPER/INCORRECT COMMENTS BY BPH OFFICIALS \_\_\_\_\_

COMMENTS/QUESTIONS BY PSYCOLOGIST YOU FEEL WERE NOT RELEVANT \_\_\_\_\_

HAVE YOU/WILL YOU FILE A WRIT ON THIS DECISION \_\_\_\_\_

DO YOU FEEL THIS HEARING WAS A RE-TRIAL OF THE CRIME? \_\_\_\_\_

\*required information.