



SUITABLE? HERE'S NEWS YOU CAN USE

It is a measure of how much the outlook for lifers has changed that we now feel we should be passing along information useful to those lifers who have actually been granted parole. By the end of 2011 the parole grant rate was about 12% overall for all commissioners. There were 4,274 hearings held with 510 suitability decisions. That's up from about 8% grants in 2010 and 7.5% in 2009.

One of the greatest stressors for many lifers granted parole after a conviction for a murder charge is waiting the last 30 days to find out if the governor will decline to review the grant, thus affirming the parole, or reverse the board's decision, effectively starting the parole process all over again. Heretofore lifers have had no one source where they could inquire about this decision and often had to wait in suspense until the institution got around to notifying them, often several days later.

As of January 1, 2013 the BPH will begin a new policy that will give those lifers waiting on the review process a definitive contact. Going forward when the BPH is notified by the Governor's office of the disposition (up or down) of a lifer's parole grant the board will notify that lifer's attorney of record via email of the decision. The board's intention is that responsible, attentive attorneys will call the Litigation Coordinator at the appropriate prison and request the inmate be advised to call the attorney collect, on a non-confidential call (confidential calls may take a few days to arrange, thus negating the timeliness of this policy). Once the inmate succeeds in reaching the attorney the relevant information on the Governor's decision can be relayed.

Whether or not the governor has decided to reverse a parole date or decline to review is, or will be, public record so confidentiality concerns are moot. The new policy will apply to both private and state appointed attorneys.

By all accounts and data Jerry Brown has been more reasonable than his predecessors, many of whom reversed anywhere between 80 and 100% of parole grants. Brown's stats from last year indicate he reversed about 12% of grants and it appears he is on track this year for about the same numbers. There seem to be certain specific circumstances that appear to trigger a reversal. Looking through the record of the 71 parole grant reversals from Brown's first year in office reveals there are about a half dozen particulars that seem to draw the Governor's attention and reversal message.

These include:

- Victims: female victims, children, the elderly or vulnerable in some way (handicapped, ill).
- Multiple victims: either in one incident or spread over a few days
- Execution, abuse or torture
- Gang related killings; prison or street gangs
- Victims' family members: attending the hearing and/or contacting the governor's office after the parole hearing

About half the reversals had victims in the risk category, nearly 20% involved crimes with multiple victims, another 20% were gang-related and yet another 20% featured torture or abuse circumstances. In roughly 10% of the grant reversals victims' families had been present at the hearing or had contacted the governor. LSAEF is collecting data that we hope will provide more information on how victims' efforts affect either grants of parole or actions by the governor.

Those lifers who have been re-incarcerated as a result of parole violations and must go through a 3000.1 hearing process should be aware that they will to be subject to the same 120/150 day period of DAPO and Governor's review as in their original grant. LSA contacted BPH Chief Legal Counsel Howard Moseley on this issue as the result of questions from lifers finding themselves in the above situation.

Moseley noted that, while several citations in Title 15, the Penal Code and even the state Constitution address various aspects of parole hearings, "[N]one of these legal authorities distinguishes between a parole grant given at a hearing held pursuant to Penal Code section 3000.1 and a parole grant given at a hearing pursuant to any other Penal Code section. As a result, it appears that the same process applies to all grants of parole."

GOVERNOR APPOINTS "TEMP" CDCR HEAD *"RE-TREAD" FORMER BPH DIRECTOR AT CDCR—FOR NOW*

As reported last month in *Lifer-Line* Matthew Cate, Secretary of CDCR for the past 4+/- years resigned in November to join a lobby firm in Sacramento. After a few days of having the big chair empty Gov. Brown, in what is said to be (and we can but hope) a temporary action, appointed Martin Hoshino, former Executive Director of the BPH, as "Acting" Secretary of CDCR.

Hoshino, a long-time CDCR gadfly, has held several jobs in the various divisions of CDCR as well as positions in the Controller's Office and Inspector General. Hoshino has proven himself a durable bureaucrat, jumping for one job to another over the course of years.

During his tenure at BPH he presided over a monolithic bureaucracy which cloaked itself in secrecy and did its very best to ignore questions from stakeholders and the public. Under Hoshino's steerage

BPH charged members of the public to view (not copy, simply view) public records, held most discussions in closed session and generally turned a blind eye and ear to the concerns of stakeholders.

His departure from BPH for a position in the administrative side of CDC was a significant game-changing moment at BPH. There are no clear signs as yet as to whether or not Brown intends his nod to Hoshino as “Acting” head of CDC to be a test period or just a place holder. LSA has already begun advancing our estimation of Hoshino. On a scale of 1 to 10, negative numbers come to mind.



IWF: IT’S YOUR MONEY AND YOU NOW HAVE A SAY IN SPENDING

The following article is lifted from the upcoming issue of California Lifer Newsletter, with our permission to ourselves. Thanks to LSAEF Board Member Victor Abrunzo for the information herein.

In previous issues we have alerted everyone to the implementation of SB 542, calling for stakeholder input on how monies from the Inmate Welfare Fund (IWF) are used. SB 542 was passed, signed and codified; it is now law. So now is the time for everyone to prepare to get involved.

A quick history of IWF. Monies in the IWF come not from taxpayers, but from prisoners and their families through purchases and surcharges. The largest source of funds are from canteens, the photo ducat program, handicrafts, interest earned on accumulated reserves, interest from inmate trust accounts, and various miscellaneous sources of income including the 10% surcharge on special purchases. Canteens alone generated most of the revenue, over \$7.5 million net income.

The latest audit by the Department of Finance (fiscal year 2010) reports the IWF for the 33 prisons generated about 50 million dollars, though not all of it available for expenditures for inmate welfare, going to interest funds, restitution and administration. Details of the audit suggest that about half of the +/- \$2½ million taken by the CDC for administrative costs that year lack justification for the expenditure; in other words, CDC can’t really say what they spent \$1 million of IWF money for. And CDC’s response to the questions of the auditor? “We disagree.” There’s a surprise.

By law IWF monies are to be spent for “the benefit, education, and welfare of inmates of prisons and institutions under the jurisdiction of the Department of Corrections, including but not limited to the establishment, maintenance, employment of personnel for, and purchase of items for sale to inmates at canteens maintained at the state institutions, and for the establishment, maintenance, employment of personnel and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the Department of Corrections.”

The Penal Code also lays out what IWF monies can’t be used to fund: overtime for staff coverage of special events; television repair; athletic and recreation supplies and original complement of television sets and replacement of television equipment. These items, as well as the basic education courses

the department is required to offer, are to be funded from the CDCR budget, although there are reports that in the last year some prisons have indeed used IWF money for those basic educational classes.

How much was spent on actual inmate welfare last year and for what? Keep in mind, these are state-wide totals, not just one prison. Total 'benefit' expenses of \$2.9 million and change, most of which went to support the activities of Friends Outside (some \$2.4 million). Friends Outside is undoubtedly a benefit to inmates and their families, but most think "benefit" should have a more direct impact on all those inside. Movies? About \$348K statewide. (What? Doesn't CDC know about Netflix?)

The Visitor Hotline accounted for nearly \$24,000 and prison libraries claimed a paltry \$14,700 statewide (a whole \$445 for each of the 33 prison libraries). Those are the more identifiable expenses. The rest are a bit less clear. Awards, \$70,800 (gold medals? Last we knew awards were pretty much limited to sodas; \$70,000 buys LOTS of sodas); Other Goods, \$27,700 (we don't have a clue what this entails) and Entertainment, \$1,500 (OK, you can't even hire a good band for that).

In all, these 'benefits' amounted to just over \$2.9 million dollars, about 35% of the IWF monies available, most of which went to Friends Outside. Even by the state auditor's figures this still left \$2.6 million unexpended. Not used. Sitting idle. And not benefiting any inmate.

Hopefully, by this time, you have some concern about how this money is being spent. For years, the Department Operating Manual has provided that ;"The institution/facility Inmate Advisory Committee, or other group(s) representing the inmate body, shall submit in writing their view of proposed expenditures, particularly in the area of inmate benefit expenditures, during the preparation of the IWF budget."

Other than obtaining some choices of canteen items from the MAC or WAC this section has been largely ignored. Now, the enactment of the provisions of Senate Bill 542 provide for an advisory council at each institution and more importantly makes it clear that both inmates and members of advocacy groups are to be involved. From the language contained in SB 542:

"The warden of each institution, in collaboration with at least two representatives from local or state advocacy groups for inmates and two members of either the men's or women's advisory council or similar group within each institution, shall meet at least biannually to determine how the money in the fund shall be used to benefit the inmates of the respective institution."

While LSA and other stakeholders on the outside work to be sure advisory outside councils are in place at each prison to fulfill this provision it is incumbent on the MAC/WAC committees to be sure all inmates are aware of this new policy and all points of view and concerns are considered in making recommendations. The DOM provides that each prison shall make a copy of the accounting report for that institution's IWF expenditures available in, and only in, the prison library. So it is up to those of you on the inside to take a look at what your money has been doing for you in past years and decide if this is the way you want it to proceed in the future.

The use of the term "collaboration" in SB 542 denotes something different than the more commonly used term "communication". Over the years it has become apparent that CDCR likes to tell people how it is going to do things. And while the department speaks with the confident air of infallibility we all know how well CDC programs work. While the millions of dollars in the Inmate Welfare Fund maybe "small potatoes" in relation to the CDCR budget these funds should have deep importance to

the friends and families who have provided funds, along with the incarcerated clientele that should rightfully expect some benefit from the fund.

We should be grateful to Senator Curran Price, who made the Inmate Welfare Fund an issue in his legislative agenda. We, both in and out of the prisons, should be prepared to demand that the fund is more accountable to the needs of the clientele. We hope this article will provoke further thought and comment, and that LSA and CLN can be vehicles for exchange of information and ideas in regard to the implementation of oversight over the Inmate Welfare Fund.

We invite our readers and family and friends to submit their suggestions for oversight and recommendations on the expending of the IWF. For those prisons where a local Inmate Family Council is operating, we suggest those groups also begin consideration of how they can interact with the prison administration and inmate representatives to establish a communication and recommendation pathway.

The following charts show the amounts and uses of IWF monies for fiscal year 2010, the last year for which full figures are available.

CATEGORY	AMOUNT	%*
Visitor Program (FO)	2,431,290	29.48
Visitor Hotline	23,986	0.29
Library	14,702	0.18
Awards	70,802	0.86
Other Goods	27,739	0.34
Movie Rental	347,895	4.22
Entertainment	1,495	0.02
TOTAL I/M BENEFITS	2,917,909	35.38
Unexpended Income	2,642,161	32.03

CANTEEN		PHOTO DUCAT		HANDICRAFTS	
Income	\$49,972,481	Income	\$589,059	Income	\$5,869
Cost of goods	-29,218,215	Supplies	-123,679	Supplies	-3,537
Staff salaries	-12,848,215	I/M pay	-2,602	Equipment	0
Supplies	-305,845			I/M pay	-4,005
I/M pay	-94,191				
Net Income	7,505,551	Net Income	462,778	Net loss	-1,673

- Percentage of total monies in IWF fund

LOOMING GOV. RACE—‘MOONBEAM’ V ‘LONE RANGER’?

Never let it be said politics in California is dull. . Assuming Governor Jerry Brown runs again (and there are no sure indications yet as to whether he will or will not) his opponent could be Assemblyman Tim Donnelly (R-Twin Peaks), arguably one of the most vocal and right-wing (not to mention well-armed) conservatives in the legislature. Donnelly recently filed papers to explore a run for governor.

“Moonbeam” vs. “Lone Ranger.”

Donnelly is perhaps better known to the public as the legislator who was detained by authorities at the Ontario airport last January while attempting to board a plane to Sacramento with a loaded gun in his carry-on luggage. The self-described tea party Republican was briefly detained and eventually fined a bit over \$2,000 and placed on three years’ probation.

Donnelly termed his attempt to board-while-armed both an “unfortunate” and “innocent mistake,” and maintained he was forced to carry a gun because of threats to his life due to his immigration position (he’s ‘agin’ it). However, agencies in the state responsible for the safety of legislators report they have not been notified of any threats to Donnelly.

"I think I am just like the vast majority of Californians," he said. "The only thing that makes me different than anyone else is I say stuff they say at their kitchen tables."

Prior to becoming the guardian of the right wing in Sacramento Donnelly led a posse of armed citizens from the “Minutemen” group to ‘patrol’ the Mexican border. After his election he spearheaded the call for Arizona-style immigration legislation by holding a rally on the Capitol steps. Step into his office and you’ll find not photos of the Assemblyman with other (well-known) politicians, but walls festooned with everything from fringed holsters to cross bows.

Donnelly rejects characterization of his run for governor, if it happens, as that of a fringe party candidate. Maybe. But there have already been suggestions of a Donnelly campaign poster featuring the candidate as gunz-ablazin’ Yosemite Sam over a slogan of “Hi-yo Silver.” One thing certain, a potential choice between “Moonbeam” Brown and “Lone Ranger” Donnelly will surely be stark.

Sometimes we’re not sure if we’re haunting the halls of the legislature or have walked into the middle of a stand-up comedy routine. And sometimes they’re one in the same.

FIRST 3RD STRIKER RELEASED

On Nov. 22 62 year-old lifer Kenneth Corley, down 16 years on a life-term third strike conviction, became the first third striker released under Prop. 36. Corley applied for sentence recall and San Diego Superior Court Judge David Danielsen decided 15 years and 4 months was an appropriate sentence for Corley’s non-violent third strike. Since Corley had already served more time than the sentence length he was ordered released.

Some counties and individual attorneys are preparing guidelines to assist third strikers in applying for sentence recall. As these agencies develop and make available templates to request a recall of sentence *Lifer-Line* and LSA will make that information available to our readers.

UPDATES AND ASSORTED NEWS

VSP: CDCR's decision to convert VSPW to a men's facility has resulted in a major shuffle of prisoners, both men and women, but primarily women. As of the end of November VSP had dropped the "W" from its name and was the only California state prison home to both men and women. The women, to be sure, are dwindling, with about 600 left at VSP, reportedly mostly those with jobs. At last report about 1,000 male prisoners had been shipped in, occupying two yards, separated from the yards housing women by the usual wire fences.

The original plan was to have the conversion of VSP complete and all female prisoners shipped out by the end of 2012. But that target seems to be fading as the weeks go on and more new women prisoners than anticipated enter the state system. The wild card in the mix is the rehabilitation and revamping of a facility in Folsom that will be used for women, population target unknown but reportedly for those women prisoners whose 'enemy issues' preclude their transfer to either of the more southerly women's prisons.

Interestingly, as the state approaches the mid-December deadline for meeting a level of population reduction mandated by the federal courts, a level the department already admits they will not be able to attain, the conversion of VSP is forcing the creation of even more overcrowded conditions in the women's prisons. Latest figure and predictions show the state expects to begin and end 2013 with well over 5,000 women prisoners in the system, significantly more than originally anticipated under realignment.

MEDICAL RELEASE: More than a year after the Board of Parole Hearings decided that, largely because he could still verbally communicate, quadriplegic prisoner Steven Martinez was too dangerous to set loose on society via medical parole, a San Diego appeals court has ordered his release. Martinez' case was the first considered last year under legislation authored by Sen. Mark Leno (D-San Francisco) that would allow permanently incapacitated prisoners to be placed on medical parole, thus saving the state millions of dollars each year. Martinez' care, for example, cost California over \$600,000 annually.

While Martinez' case was the first to be considered under the medical parole statute, he was turned down by the parole board, who cited his ability to verbally communicate and thus could conceivably convince someone to commit a crime on his behalf, as the reason for denying his release. The San Diego appeals court disagreed and ordered his release from Corcoran. He will thus become not the first, but the 48th prisoner released via medical parole. Martinez was paralyzed from the neck down 10 years ago, the result of being stabbed in the neck by another inmate.

SACRAMENTO: A 2007 CDCR policy to perform 'risk assessments' to assist in selecting housing and rehabilitation treatment is credited with helping the department decrease the recidivism rate for parolees. Outgoing- Sec. of Corrections Matthew Cate announced the three year recidivism rate for those released 2007-08 was calculated at 63.7%, down from a high of 67.5% for those released in 2005-06. The lifer recidivism rate remains a paltry .58%.

LSA: We do not have the ability to access and print copies of legal case rulings for prisoners, copies of CDCR regulatory policies nor provide legally numbered pages for the creation of writs. Nor can we process books of stamps for money orders to be sent to third parties. All such requests will be returned to the sender along with any funds or stamps they have enclosed.

'Twas the Night Before (a prison) Christmas

(An abbreviated, customized version of the old favorite, with apologies to W. Clement Moore)

T'was the night before Christmas and on all the yards
Not a creature was stirring, not even the guards
No stockings were hung, no yule logs were lit
Christmas in prison is pretty much s---

The inmates were huddled asleep in their beds
While visions of freedom danced in their heads
In Sacramento Jerry had donned his night cap
And just settled down for a quick power nap

When out in the yard there arose such a clatter
All sprang from their beds to see what was the matter
Inmates all crowded the windows to see
What the cause of the alarm could be

The moon on the tips of the coiled razor wire
Twinkled and gleamed like small sparks of fire
When what to their wondering eyes should appear
But Santa and sleigh, minus reindeer

The lil' ol' driver, all smiling and bright
Brought a dozen elves to help him that night
More tight than sardines his helpers were stacked
Their faces familiar to some in the pack

"Now Anderson, Garner, Roberts, LeBahn
Fritz, Singh, and Turner, Montes, come on
Zarrinam, Figueroa, Ferguson and Peck
Come on, dash this way you've got halls to deck"

He was dressed all in red from his head to his toes
(Surprised he got in in those gang-colored clothes)
Boxes from vendors he had strapped to his back
Walkenhorst, Union, and all the rat-pack

His eyes were a-twinkle and his dimples how merry
Inmates were laughing, guards looking wary
From the stump of a pipe he held tight in his teeth
Smoke (of some kind) hung around like a wreath

He spoke not a word but went straight to his work
Shook every hand and then turned with a jerk
And throwing his helpers into the sleigh
Flew over the wire toward breaking day

He stood in his sleigh and gave a sharp whistle
And away they all few like an unguided missile
Be we heard his chant as he flew on his way
"Merry Christmas to all and freedom one day!"

