



2018 PAROLE GRANTS HIT HIGH MARK

While we don't want to make too much of this (and provide a target for those who want to keep all lifers behind the wire forever), we can't help but note that 2018 set a high mark for parole grants, at least insofar as available statistics support. For 2018 parole panels handed down a total of 1,136 parole grants, both at initial and subsequent hearings.

Taken in historical context, that number is even more impressive, as we note in 1978 and 1979 only one lifer in each year was granted parole, and the following year, 1980, no one went home. Grants remained in the low double digits through the next two plus decades, only breaking the 3-digit mark in 2002 when 168 grants were made.

And there the grant rate seemed to flatten out, for the most part, until 2008 when the historic *In Re Lawrence* decision made it impossible for (former) parole panels to deny parole solely, or primarily, on the nature and fact of the crime. And while parole panels still refer to crimes as 'heinous' and 'atrocious' (and what murder/killing/kidnapping, violent crime isn't heinous?) those characteristics are now only part of the narrative, with the decision, grant or denial, required to be based on something other than emotion and often decades-old static events.

In 2007, the year before the *Lawrence* decision, 119 grants were made; in 2008, the year *Lawrence* was decided, the grant numbers more than doubled to 293. And the following year, the first full year after *Lawrence*, that number almost doubled yet again, to 542.

For the next few years, grant numbers hovered around the high 490s, until 2012, when, by our estimation, the increased training and accountability required of commissioners under Gov. Brown's BPH administration, took a jump to 670. And from there it has continued, largely to increase, to the 2018 number of over 1,000.

More details on these facts and statistics both as the year-end reports are released and we find the time to data mine those publications. But in the meantime, lifers and families should quietly celebrate and appreciate the progress made. And remember, it's not that the brass ring has become easier to grab, but that it's no longer coated with oil to slip out of your hand and programming, rehabilitating lifers are becoming more adept at grabbing that ring and holding on.

JERRY BROWN REMAINS CONSISTANT IN REVERSALS

But the negative numbers are at historic lows

The last summation of lifer parole reversals made by (now former) Gov. Jerry Brown om 2018 reveals that, while the number of those reversals is dramatically down, the 'triggers' for reversal by Brown have remained consistent throughout his term. In 2018 Brown reversed a total of 28 grants of parole, out of over 1000 grants, the smallest percentage of reversals in recent memory.

The most striking common factor in the reversals was, again, victimology, or the characteristics of the victims. Of the 28 lifers who saw their dates 'taken' by Brown, 15 had women victims. The gender of the victim has long been one of the primary triggers for Brown's intense scrutiny and wrath. Of the 5 women lifers who were reversed, two were convicted of killing their husbands, while 2 others were convicted of crimes involving their children.

In previous years Brown has included stinging messages in his reversal letters referencing the 'sacred duty' of spouses and parents in protecting their family members, but his reversal missives in this report were more direct and less esoteric. But the vulnerability of victims remained of concern to the end of the former Governor's term. In addition to the factors noted above, 2 other inmates who were convicted in the deaths of children and one whose victim was disabled were reversed, along with one inmate convicted of the killing of a police officer, also long a Brown issue.

Length of commitment nor age at the time of the crime offered much mitigation for the former Governor, as 14 of the reversals were for inmates who fell under YOPH guidelines. Another 14 were over 50 years of age, with 5 of those actually over 80 years old, the oldest being 85. Length of incarceration ranged from 52 years to 17, most serving in excess of 25 years.



One inmate, granted commutation from LWOP to 25 to life by Brown in 2017, was subsequently granted parole, but reversed by Brown, who noted he did not feel the inmate's insight was sufficient. In fact, insight, either lack of or insufficient, was the most common reason stated by Brown for his decision to reverse. He also called out several individuals for lack of understanding their reasons for criminal actions or, in Brown's view, implausible explanations.

And as we have long noted, the efforts of victims' families to block parole appear to have more impact on the Governor (at least the most recent ex-governor) than the parole panels. In a half dozen of the reversals Brown noted the opposition of victims' family members to the parole grants. There has long been speculation (in which we participate) that the parole panels, held to certain factual standards by laws, are less likely to act on emotion than the Governors, who, under the reversal powers bestowed on them, have a lower legal standard to meet in making these decisions.

And while we don't intend to assign motives to Brown's decisions, it certainly appears he just might hold a grudge, as 6 of the 2018 reversals had been reversed before by Brown, at least one inmate experiencing his third denial. Interestingly, little mention was made in this crop of denial letters of the results of the CRAs, a detail Brown heretofore often relied on.

In all, the reversals in 2018 were encouraging on a couple of fronts; first, the relatively small number of the reversals. At 28 reversals out of 1136 grants, the reversals calculate at about 2.5%--the lowest on record. And the toned-down moralistic tone of the reversals letters was also, shall we say, refreshing.

Where do we go from here? Newly-inaugurated Governor Gavin Newsom, in office at this writing about 3 weeks, is a somewhat unknown player. He will have ample opportunity, however, to signal which way he intends to move, with upcoming reviews of grants to some high-notoriety inmates. Newsom, not subject to the Jesuit-taught standards that often seemed to dominate Brown's consideration of rehabilitation vs. vengeance, will be an interesting study. We'll be watching.

FIRST LOOK AT EARLY LEGISLATIVE BILLS

Although the 2019-2020 legislative session is barely underway, a trio of bills affecting prisoners, particularly lifers, have already been introduced. It will be some time before these, and any other bills yet to be introduced, make their way through the process, but here's a first look at some of the potential changes.

AB 32: This bill would prohibit the Department of Corrections from entering into or renewing a contract after January 1, 2020, with a private, for-profit prison to incarcerate state prison inmates. The bill would also prohibit, after January 1, 2028, a state prison inmate or other person under the jurisdiction of the department from being incarcerated in a private, for-profit prison facility. This would include the current 'community corrections' facilities.

AB 45: Under current law, inmates are charged a \$5 co-pay for medical visits, which the Secretary of Corrections is authorized by law to collect. Indigent inmates are not charged. This law would repeal that authorization, and thus the required co-payments for inmates seeking medical attention.

SB 136: Existing law imposes an additional 3-year sentence for each prior separate prison term served by a defendant for a prior or current violent felony offense was a violent felony. For other Felonies, existing law imposes an additional one-year term for each prior separate prison term or county jail felony term, with some specific exceptions. This bill would delete the provision that requires an additional one-year term. It does not appear to be retroactive, but it's early days yet, so amendments are possible.

A few other bills offer some interesting possible impacts on the current (and future) prison population. Among them:

SB 144: Currently various fees for administering probation and diversion programs, collecting restitution orders, processing arrests, administering drug testing, facilitating medical visits, sealing or expunging records, and basically just incarcerating an inmate can be assessed to that inmate. This bill would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees. How this would impact restitution, and how far retroactive it would be remains to be outlined.

SB 132: States the intent of the Legislature to enact legislation to ensure that transgender people in custody have equal rights and protections and to help protect the human dignity and safety of all people in custody.

SB 141: Would allow CDCR to refer indeterminately sentenced inmates (lifers) to the State Department of State Hospitals for evaluation to determine if that individual qualifies as a sexually violent predator. That referral would be made less than 6 months prior to any scheduled release date (or most likely as soon as a parole grant might be made). This process is already in place for those serving a determinate term or whose parole has been revoked.

And finally, a bit of a head-scratcher:

SB 120: This bill would state the intent of the Legislature to enact legislation to ensure public safety. (One would think this would be obvious, and not require specific legislation to codify that intent; however, perhaps some legislators are concerned lest the public think their lawmakers are ‘soft on crime.’)



VISITING: THE WAIT GOES ON AND ON AND ON

New regs effective Jan. 15, 2019 but prisons seem unaware.

After what already seems an unconscionably long wait, new regulations reportedly designed to open up family visits to more lifers and LWOP inmates (and other DLS inmates as well) were officially blessed as legal and fitting by the Office of Administrative Law on January 15, 2019. This, after being introduced in December of 2017, having gone through an extended public comment period culminating in a ‘public hearing’ in February 2018 and a seemingly un-ending review and extension of deadlines by CDCR and the afore mentioned OAL.

Word finally received via the office of Sec. of Corrections Ralph Diaz that the regs were approved first brought a sigh of relief (as the regs were said to be immediately effective), which quickly turned into a frustrating series of rejections by individual prisons. Although CDCR Headquarters in Sacramento seemed to believe all was well and the regs were being implemented, new family visiting applications (or reapplications under the provisions of the new regs) being accepted and processed.

But, oh, not so. Since the day of the supposed implementation LSA offices have been deluged with calls, emails, even text messages and letters from inmates letting us know nearly every prison from

Donovan to Solano apparently hadn't received the word. Counselors, who under the new regs are not the final arbitrator of who is approved and who isn't, claim they haven't heard any news, there are no new regs, nothing has changed and don't bother us now. If you're experiencing any of these, or other family visiting problems, bear with us a little longer.

We've asked for definitive information from Sacramento on how this information is supposedly being sent to the prisons, what sort of training is being planned, what's up with the constant refusals and, in general, what system of communication are they using, carrier pigeon? Truly, we believe this will be worked out, and in (for CDCR) relatively short order.

We're on it, we are being that thorn in the side of CDCR that is sometimes necessary to get something done. Keep checking, and have your families check our Facebook page, where we'll post the latest....and hopefully by doing so reduce the number of individual calls and emails we have to answer.

TRAVELING THROUGH ANGER TO PEACE

Anger issues are always a red flag for parole panels, because anger often figures significantly into crimes. Lifers preparing for their board hearings would do well to examine the role anger played in their actions and address that issue.

And that can't simply be saying they won't allow themselves to get angry. The board wants realism.

It's not possible to go through life without injury/hurt from people, sometimes those closest to us. And it's a basic human response to react, even lash out, in anger and disappointment when someone hurts us. Lashing out in ways other than words often leads to criminal act.

It's long been recognized that impulsivity and anger, one fueling the other, are often factors in crimes. When anger rises, we're left with a number of choices:

- ignore the incident, which is seldom healthy
- lash back immediately or slowly, through words or deeds
- hold a grudge, to be dealt with later
- put the blame totally on the other person
- maintain, to others and ourselves, our total innocence and righteousness when returning the hurtful act with unkind and damaging words or actions

Or. Take a few simple steps to ease the negativity, learn from the experience and continue to grow in rehabilitation.

Forgiveness can provide peace of mind, take the sting out of anger and relieve you of that intense need to 'get back.' Forgiveness is simple, but not easy and using it successfully depends entirely on how much we want to heal and learn how to handle difficult situations, people and events.

Consider these options:

How many times have we been told by parents or people in authority that life isn't fair? Don't expect fairness.

Take blame out of the picture. If one chooses to remain in this mind space, variations of the same problem will continue to surface until we make the decision that "enough is enough". Our happiness and peace of mind is our responsibility - totally. To continue to place blame keeps us trapped in a cycle that is very difficult to break free from.

Hurtful incidents are seldom random, but usually part of a pattern of thought and action. Holding onto anger, bitterness and resentment takes an incredible amount of personal power and energy from us and keeps us in that pattern of anger, hurt, retribution—and starting the cycle again.

Never regard the adversity simply as punishment; look for the opportunity to learn. It may arrive as an "aha" moment or gradually over a period of time, but eventually we will notice and understand that a change in some aspect of our life is necessary. It is human nature to cling to the familiar, even if causes hardship and misery.

Measure the cost of holding onto resentment and anger as opposed to the benefit of learning to let go, beginning to heal and finding some peace within ourselves; the choice is always ours.

Certainly we are going to make many choices in life, some of them may be (or may have been) poor decisions but they are ours to make and they are essential to our learning. How quickly or slowly we "catch on" determines our progress in life and the length of time we remain in a place of discomfort, physical or mental.



A crucial point to remember is that there are no fast and easy methods when ridding ourselves of the emotional baggage that comes with being wronged and wounded, and responding in kind. But instead of stewing in your resentment and attracting negativity, try letting it go, because it no longer serves your best interests.

Lastly, and probably most important is forgiving ourselves. Hand in hand with anger and bitterness is guilt—that we, also, have hurt and damaged. Guilt can be just as damaging to our emotional and mental well-being as hate and rage, so we need to exercise the same forgiveness to ourselves that we would to others, whether or not others forgive us.

We all must take our share of responsibility. But we also have to accept that the past cannot be changed, no matter how much we wish it to be. Make an honest and appropriate effort to make amends, but also begin the process of forgiving ourselves. Nobody can do that for us. Acknowledging the reality of the past, the change of the present and future is not a sign of weakness or avoidance, but signs of great strength and growth.

In school, you learn the lesson and then take the test. In life, you take the test and then learn the lesson. To quote the Dalai Lama, "The period of greatest gain in knowledge and experience is the most difficult period in one's life."