



*Jeffrey Beard*



*Howard Moseley*



*Amarit Singh*

## **CHANGES IN THE WIND**

Three major personnel changes within CDCR have come down in the waning days of 2015, and as usual when the players change these new developments could be positive—or not—for the lifer community. But on the whole, we think these developments could bode well for advancing reform and change in policy.

First to be announced, in early December, was the then-imminent and now accomplished departure of Dr. Jeffrey Beard as Secretary of CDCR. Beard, in office for almost exactly 3 years (appointed Dec. 27, 2012) and long considered by many observers to be the personification of Governor Brown's efforts to comply with the 3 federal judges' population cap order, announced that effective Jan. 1, 2016 he would be leaving. This missive, we suspect, was delivered as he was on his way to the airport to catch the next flight back to Pennsylvania, from whence he came.

Pundits had long theorized that as soon as CDCR reached and seemed able to maintain population levels in line with the judges' orders Beard would be headed east, as he never appeared to firmly 'settle' in California, nor become invested in the state's prison population. The department did, in fact, reach that population cap, 137.5% of design capacity or about 113,720 inmates, in February, 2015, about a year ahead of the court-mandated deadline. And the population level, while fluctuating, has remained under the cap level; last reports on Dec. 15, 2015 set the number of inmates in state-run prisons at 112,510.

And so Beard, citing in his resignation letter the achievement of that population reduction as well as touting programs to increase rehabilitation efforts and drug interdiction, has now left the building. Who will replace him remains unknown, though many names are being batted about. We're not

going to add to the speculation, though there are some we could enthusiastically support, and other we would just as earnestly oppose.

It is, however, an opportunity for Governor Brown to replace Beard with someone who truly has an investment and interest in improving the state of California prisons and corrections policy. At a time when sentencing, long-term warehousing of prisoners for questionable return and the general theory and humanity of the prison-industrial complex is being questioned even on a nation level, this is an opportunity for Brown to again put California in a leadership position with a forward-thinking and tenacious individual who knows the California prison system and the players and stakeholders in the game.

As December rolled to a close two more changes affecting lifers were announced at the recent BPH Executive Meeting. Howard Moseley, for the past 3+ years the Chief Legal Counsel at the BPH, was tapped by Brown to be Deputy Chief Legal Counsel for CDCR as a whole. Moseley was a major part of the forward-thinking and accessible team at BPH under the direction of Executive Director Jennifer Shaffer. And while we hope he can continue that effort to bring transparency and interaction to the monolith that is CDCR, we are cautiously anticipating who will be tapped by the Governor as Moseley's replacement.

Moseley, during his tenure at the BPH, was unfailingly responsive to our queries regarding implementation of policy and new procedures and was interested in how those changes and ideas were perceived in the lifer community. While we have not always agreed with his interpretation of policy (but then, we aren't attorneys) we did find him willing to listen, consider and discuss those differences. His departure will be a loss for BPH but hopefully can be a positive presence at CDCR.

Also announced at the December Executive Meeting was the departure of parole Commissioner Amarit Singh, who is joining the Office of the Inspector General. Singh, a commissioner since late 2012, was known to LSA as a commissioner who, in 2014, handed down more 15 year denials than any other commissioner. We opposed her at her most recent confirmation hearing, and while a personable and able attorney, we are not particularly sorrowful to see her move on. Reportedly, at the OIG, Singh will be heading a division overseeing state hospital compliance with ADA and similar requirements. As such, it appears she will not have frequent and direct interaction with inmates.

Of course Singh's departure now leaves the commissioner panel one commissioner short, and with an uptick in hearings scheduled due to the implementation of SB 261, elderly and medical parole, that could be a problem. How fast Brown will replace the departing commissioner and with whom is the burning question.

What's the next shoe to drop or individual to move on? Who knows. The end of year, especially at a time that will see many legislators terming out in the coming year, is always a time of movement. Many contacts in legislators' office in the capitol are changing offices as well, as staff seeks to carve out some stability for themselves in the face of sitting legislators leaving office and an influx of new law makers prepares to enter. It always pays to be nimble.

### **ARE YOU MOVING?**

Be sure to send us your new housing information—prisons do not always forward mail when the yard and cell/bed number is not included in the address. Send your new address to our old address: PO BOX 277, Rancho Cordova, Ca. 95741.



## JOHNSON v SHAFFER SETTLEMENT

*Reprinted in part from the December, 2015 [California Lifer Newsletter](#) analysis of the settlement with commentary by John Dannenberg and summary of the cogent aspects of the terms of settlement.*

After three years of litigation and negotiation attorney Keith Wattley (representing Johnson and the class of life prisoners) entered into a settlement agreement with the BPH regarding the use of Comprehensive Risk Assessments (“psych evals”) in lifer hearings. Over the years, there has been much speculation as to abandonment of the FAD (Forensic Assessment Division – the Board’s forensic psych evaluators), or to rejection of the standardized tests employed by the FAD that are based on non-lifer actuarial data.

For those who hoped the axe would fall on the FAD, it didn’t. Rather, new guidelines and regulations were agreed to that amend how the FAD operates in parole evaluations. To provide maximum clarity of just what the recently announced agreement entails, and doesn’t entail, CLN is reporting the summary issued by the Court.

In short (summarized from the information provided in CLN), the settlement agreed on provides the following:

- All CRAs will now be done every 3 years, rather than every 5 years.
- Subsequent Risk Assessments (SRA) will no longer be conducted.
- If the Board wishes to change how or when CRAs are performed, including changes to what risk assessment tools are to be used (other than those currently in use, HCR-20 Version 3, PCL-R and the Static-99) class counsel may present an expert of his choice to discuss such proposed changes in open session
- The Board’s Chief Psychologist (Dr. Cliff Kusaj) will present, in open session, a report to the Board on the recidivism rate of lifers, and this information will be provided to class members (lifers) through class counsel (Wattley), on the Board’s website and to attorneys representing lifers
- The Chief Psychologist will provide the Board with a report on how and when the Static-99 is used and CRAs will inform the reader that the Static-99 does not consider dynamic characteristics.
- All future CRAs will clarify the risk rating for lifers, relative to other prisoner cohorts and will remind readers that the recidivism rate for lifers is lower than that for other parolees.
- The Board will formalize a process for lifers and lifer attorneys to factual errors in CRAs in advance of a hearing and receive a written response.

So it appears the FAD will be with us, for the foreseeable future. What discernable impact these settlement points will have on CRAs and the resultant use by commissioners remains to be seen.

## **SB 261 NOTICES—WHAT THEY MEAN**

More and more we are getting questions from lifers and long-term determinate sentenced inmates who are receiving notices from counselors or classification that they qualify as a youth offender under SB 261. And that's usually all the notice say; just that you qualify, not when you'll get a parole hearing, what to do next, or how to prepare.

So once again, we'll try to do part of CDCR's job for them. If only we could get counselor's pay for doing their work~

Should you receive a notice indicating you qualify for a YOPH hearing that, by itself, is no indication that you will be going to a parole hearing right away. While it is the age at the time of the crime that is the primary determinate as to whether or not any individual prisoner qualifies, it is not that alone that will trigger the timing of a hearing. Under provisions of the YOPH laws minimum terms must be served, whether DSL or ISL inmate. It is the time you have served, and the timing of your MEPD in relation to the YPED (Youth Parole Eligibility Date) that will determine when you will receive a parole hearing.

The date you reach the minimum time served requirement for SB 261 is the YPED date. If that date occurs before an MEPD (minimum parole eligibility date, which can vary from lifer, depending on the set of laws in place at the time of his/her conviction and sentencing regarding time to be served before parole eligibility), then it will be the YPED date that will bring you to a hearing before the MEPD date is reached.

Whew. Hope that's clear. Shorter form, those eligible for YOPH hearings will get those hearings at either their YPED or MEPD date, whichever happens first. So for those with extremely long sentences, it will be the YPED date that will likely impact a hearing, bringing that event about faster than would the MEPD.

For those who have met the minimum time served requirements to qualify for SB 261 and are serving a life term, you will have a parole hearing by Jan. 1, 2018 and if a DSL, by the end of 2021. If you qualify as a YOPH candidate but have not yet reached the minimum time served, your hearing will be scheduled after you've reached that threshold.

## **RUMORS—AGAIN!**

It appears to never end, the rumor mill inside prisons. How these rumors spread mis-information from one institution to another, we're not sure—airborne infection, gossip by visitors, inmates transferring in and bringing specious information with them, all of the above, maybe. Whatever the source, rumors continue to abound and when inmates buy into this wrong information they set themselves up for disappointment at best.

Latest to reach us, an absurd list of supposed benefits available to ex-prisoners sometimes called The First 36 Hours, sometimes labeled Benefits for Former Inmates, sometimes just gabble. Whatever, this list of supposed financial benefits available, without question and immediately (within the first 36 hours) to all ex-inmates, is rubbish, to put it kindly.

No, you won't get a check for SSI benefits with 72 hours, simply because you're on parole. Nothing happens that fast. If nothing else, before Social Security will even talk to you, you'll need a Social Security card; to do that you must be able to prove your identity to reclaim your number and for that, you'll need a Driver's License.

Not to mention, there is no automatic benefit for former inmates. You don't qualify for SSI (described in some of this drivel as 'welfare paid through Social Security') just because you're unemployed and 'disabled' by virtue of being a former prisoner. FALSE.

Nor will the state's Division of Rehabilitation Services loan you up to \$50K to start a business, just because you're a member of a 'disabled' class; disabled, socially and financially, due to your status as a former prisoner. And no, there are no 'federal guidelines' that label former prisoners as disabled due to emotional problems associated with being a former inmate. REALLY???

And, frankly, would you want to be considered disabled due to emotional problems? Ex-inmates are not considered automatically disabled by either the federal government, for purposes of benefits, or the State of California. You cannot receive, or accrue, benefits while you are incarcerated, so that no matter whether or not you complete various applications you won't have a check 'waiting for you' on release. And even if you get SSI benefits, if you're truly disabled, you won't be able to find 'any bank in the area' to loan you \$6,000. PIPE DREAM.

This latest batch of rumors involving alleged 'benefits' available to former prisoners as part of a 'disadvantaged minority' or 'disabled class' is WRONG on so many levels, it's hard to know where to begin. Frankly, if getting money once released was that easy we wouldn't be working to so hard to help recently released lifers reentry society. Suffice to so, there no legitimacy to any of these rumors or tales from beyond.

What is often available to those released are food stamps (now called Cal Fresh and funds electronically added to a debit card) and, in some cases, general assistance. In some cases. For a limited time. And not in the amounts being bantered about.

So when someone tells you how much money you can get once released, remember that old adage, if it sounds too good to be true, it probably isn't. And this case, we can assure you it not only isn't true, it's the epitome of misinformation and misrepresentation.

## NEW YEAR'S WISHES



Our hope for all in 2016—Peace on Earth, Justice for All, Freedom and Success for Lifers.

## LOOKING BACK, AND FORWARD

As LSA looks forward to the New Year and our sixth (!) anniversary of creation and work, looking back makes us realize how far we've come. And how far there is, yet, to go.

When LSA was born the parole grant rate, under, we must note, a different administration, very different parole board and attitude, was about 12%. Although figures for 2015 are not yet complete or released, from what statistics are available, and from conversations with sources, the grant rate for parole hearings is now consistently over 30%, with the rate at some individual institutions (Level II primarily) close to 50%. In 2014 over 900 parole grants were given and we expect to see about that same number this year. A far cry from the old days; when Gray Davis was governor only 8 lifers were released in his 5 years in office.

So things are changing, and continue to change. New legislation, starting a few years ago with SB 9, through SB 260 and continuing this year with SB 261, have made a huge impact on how hearings are held, the number of grants given and the prospects for long-serving inmates. The implementation of elderly parole, increased consideration of medical parole and the direction of the 3 judge panel have all impacted parole. With the recently increased, even on a national level, attention on sentencing reform we hope to see even more progress in the coming year.

And LSA has been a part of this. From support of and input on legislation, to learning more about the parole and hearing process (and passing that information along to inmates) to discussions with various divisions of CDCR, we are, in fact, a recognized stakeholder, firmly seated at the table for discussion and change. And we are the ONLY consistent voice for lifers in these discussions. When we began lifers were a 'too hot to handle' political topic. Now, as more agencies, individuals, even politicians, recognize the character of lifers, their potential for change and giving back, lifers, reentry and rehabilitation have become a new 'hot topic' and growth industry. All of which we find vaguely amusing.

It's been a long and interesting journey, one that isn't complete yet, but that continues to show great progress and potential. Lifers are coming home. It's still a difficult process, with slips and setbacks along the way, but more and more those lifers, and even long-term determinate sentenced prisoners, who do the work, the introspection and self-change required to set them on the right path, are coming back home.

They're coming home to a much changed world, one they, and their families, need help in negotiating and adjusting to. And thus our mission has expanded, to assist paroled lifers and their families, as well as those still waiting release. We're a small group, but our voice is large. Numbers wise our staff is small, but in tenacity, passion for our mission and knowledge, we're huge.

And so in 2016 we will continue to work for our expanding cohort of prisoners and families, to help educate them, explain the complicated issues and inform them of changes and upcoming actions. Some of our supporters and workers have been blessed to have their inmates come home and yet they, and many of those paroled lifers, still work for those remaining inside the wire. Others are still waiting and working for that dream, not giving up hope or the will to keep on track.

Our best counsel: stay on track, stay positive. Look to the future, don't look back. And know you are not alone, that there are those in the outside world who are working for you, aware of your struggle and here to help.