



BPH SIGNIFICANT EVENTS IN 2018

It was a busy year for the BPH, all reported in the Report of Significant Events, 2018, released recently. This is the fifth year the board has released this report and each year more information is included, making the workings and the results of the Board's activities more transparent.

As an example, in 2018 the board scheduled 5,226 parole hearings, but only about 56% of that number actually went to completion, with a decision announced. The remaining scheduled hearings were not held, due to postponements, stipulations, waivers, cancellations, continuances. Of course, the big question is—what was the all-important, all-revealing, all-telling grant rate?

Short answer: 39%. Of the hearings actually held in 2018, 39% of the time, for 1,136 prisoners, the commissioners said granted. In deeper detail, 25% of those grants (285) were given at an inmate's initial hearing, 69 (6%) were for women, 698 (61%) were for YOPH inmates and 234 (21%) for elderly parole inmates. We should note, there were a few inmates, actual numbers not available, who were considered under both the guidelines of YOPH and elderly parole.

If you were a YOPH inmate in 2018, you had a 40% chance of being granted parole and if you went in under consideration of elderly parole factors, your chances were 38%, overall. Interestingly, but perhaps not surprisingly, there was a difference in the success rate for Indeterminately Sentence Length inmates (ISL: lifers) and those with a Determinate Sentence Length (DSL; long term but definite number of years) Youth offenders with life sentences had a significantly better success rate at hearings in relation to DSL inmates—43% to 17%. For those under elderly parole guidelines, the difference in the success rate for ISL inmates (lifers) when compared to determinate inmates was substantial. Lifers were successful at parole hearings 39% of the time, while those with long-term determinate terms, heard under elderly parole proceedings, were granted a mere 5% of the time. The difference may be in the nature of crimes under consideration, but no firm empirical evidence is available.

And for those inmates denied parole and contemplating ways to advance their next hearing date—take heart. If you received a 3-year denial and your hearing is advanced under the automatic Administrative Review process, as happened 82% of the time for those reviewed, your chances of achieve a grant at that advanced hearing was 58%.

And for those who received a longer than 3-year denial and filed a PTA in 2018, the news was nearly as good. Some 72% of PTA requests were granted and 40% of those advanced hearings were successful in achieving a grant at the advanced hearing.

That's the good news for lifers. Now for the not-so-great news. Reconsideration hearings, those held for former prisoners released under the lifer parole process who were so unsuccessful on parole as to find themselves back in prison with their life sentence reinstated, were up. In 2018 parole panels considered a second, second chance for these individuals 108 times, a pretty healthy jump from the 83 such hearings the previous year. Almost half that number (48) were initial reconsideration hearings and while we don't know the number of times grants (re-grants?) were made, we can get an idea from looking at the numbers from previous years.

If a lifer is denied at a parole reconsideration hearing, s/he will receive a parole hearing every year; on that basis, knowing there were 83 reconsideration hearings in 2017 and 60 of the reconsideration hearings in 2018 were subsequent, we can deduce that in 2017 only 23 inmates were successful in re-achieving parole, roughly 27%. With the rate of such hearings going up, there is little reason to conclude that a significantly larger number of re-offending lifers found favor, again, with the board.

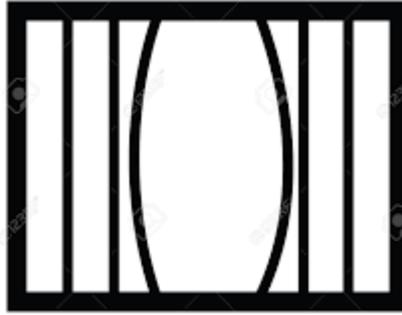
Also troubling was the report of an uptick in re-offenses by lifers paroled over the last 3 reporting periods. The 2016 CDCR Outcomes Report looked at 349 lifers released via parole in the 2011-12 fiscal year. In that report the department noted 11 individuals, about 3.2%, had been convicted of a crime during the 3-year follow up period after their release reported on in the 2016 report. Of some relief is that only one of those re-incarcerated individuals was convicted of a felony against a person.

The 2018 Outcomes Report found that of the 510 ISL inmates released via parole in fiscal year 2013-14, about the same percentage (3.1%) of those parolees had been convicted of an additional offense during the reporting period, but 3, an increase, had committed a felony against a person. Be careful out there.

Interestingly, those prisoners who came under board consideration for the Determinately Sentenced Non-Violent parole review process didn't fare as well, release wise, than did those who had an in-person parole hearing. The non-violent review process is entirely a paper review process, with inmates who may qualify screened by CDCR classification initially before being referred to the BPH for an additional jurisdictional review before being considered on merits and for actual release. About 13% of the over 5,000 inmates initially referred to the BPH were screened out by the board, which then considered a little over 4,500 on the merits of their case. Release was approved, however, for only 23% of those. Those denied release via this process will receive another review in one year.

The 2018 report also noted the training sessions conducted by the BPH, both for commissioners and the clinicians of the Forensic Assessment Division. Commissioners and Deputy Commissioners received some 42 training sessions during the year, often as part of the BPH monthly Executive Board meetings. These sessions, ranging from 30 minutes to 2 hours, covered a variety of issues from transitional housing, mental health services, transgender issues, VNOK procedures, CRA matters...and even what Life Support Alliance is about and up to.

The psychologists of the FAD also received training in 2018, though, it appears, less extensive, both in time and variety. Dr. Kusaj reported the FAD clinicians receive 'training during routine staff meetings throughout the year,' and reviewed 'a variety of published research' via a research data base. The clinicians also received additional training, some of it actually from outside (out of FAD that is) experts. Of the eleven training sessions listed, 5 were conducted by individuals not FAD affiliated, though none were from outside CDCR. The remaining, the majority, of the FAD training was presented by members of the FAD itself. We reserve comment.



CRICKETS ON COMMUTATION APPLICATION?

During the last few months of former Governor Brown's administration the race was literally on to get commutation applications to his desk before he walked out those big double doors for the last time. And while many received relief from Brown, many are still waiting for action, advice, any word on applications sent to the Governor's office but not yet reconciled.

Recently, now-Governor Newsom's website updated the process and provided the following information:

"If you submitted a commutation application to a prior governor and did not receive notice of a commutation grant, your application is deemed closed. If you submitted a commutation application in the last three years and would like Governor Newsom to re-open your prior application and consider it, you may submit a Reapplication for Clemency. To re-apply for a commutation: Submit a completed Reapplication for Clemency Form (1 page). Do not re-submit your original application or other documents unless requested to do so by the Governor's Office."

The website further details the commutation process thusly:

COMMUTATIONS

People who have been convicted of a crime and are currently serving their sentence in California may apply for a commutation (reduction of sentence).

In deciding whether to grant a commutation, the Governor's Office will carefully review each commutation application and consider:

- *the impact of a commutation on the community, including whether the grant is consistent with public safety and in the interests of justice;*
- *the age and circumstances of the offense and the sentence imposed, and the age of the applicant at the time;*
- *the applicant's self-development and conduct since the offense, including whether the applicant has made use of available rehabilitative programs and has identified and addressed treatment needs;*
- *the applicant's need for a commutation; and*
- *the applicant's plans upon release from custody.*

Applicants will be notified when the Governor takes action on a commutation application.

INVESTIGATION & REVIEW

The Board of Parole Hearings, a division of the California Department of Corrections and Rehabilitation, investigates commutation applications. The investigation will include a review of the applicant's criminal history records, court and police records, and records and information about the applicant's period of incarceration from the applicant's C-File and other sources.

We reprint this information, direct from Governor Newsom's website, because we receive so many questions from lifers and LWOPs about commutation applications, and because CDCR itself, and counselors in particular, seem to have so little information to provide to inmates. The one-page reapplication form referenced above is available on the Governor's website as well.

Ask your counselor for it (surely CDCR has access to the web), ask your family to print it and mail to you, or, as a last resort only please, write LSA, send us a SASE and we'll forward to you.



PROP. 57 CREDITS UPDATE

CDCR has announced that as of May 1 Prop. 57 credits will be expanded in the following manner:

Educational Merit credits will increase from 90 to 180 days for high school diploma or equivalency approved by CDCR. This could apply retroactively to those who submitted requests for such credits on or after August 1, 2017

Rehabilitative Achievement Credits (RAC) will increase from 7 days to 10 days for credit for completion of 52 hours of programming in a 12-month period, up to a total of 40 days credit for 208 hours of programming in a single year. These will be awarded retroactively to Aug. 1, 2017, to allow those who had excess programming hours in the past to receive credit for that work.

Good conduct, Milestone Completion and Extraordinary Conduct credits remain unchanged. On April 2, 2019 the department began restoring credit to those who were disciplinary free for the requisite length of time following a rules violation—those credits will be restored automatically. The memo outlining these changes also notes Correctional Counselors should have more information. We hope.

BPH UP FOR NEW LEGAL COUNSEL?

Along with the assurance of 2 new parole commissioners early this summer, and the need to reappoint or appoint new commissioners to 5 spots, it appears the BPH may now also see a new Chief Legal Counsel named. In late May Gov. Newsom's office announced Jennifer Neill, who has been Chief Legal Counsel at the BPH since 2016 will be joining the office of Legal Affairs at CDCR. As of press time, no replacement for Neill had been announced.

And, as of the time we go to print, no new commissioners nor reappointments of sitting commissioners have been announced. Up for possible reappointment are Commissioners Anderson, LaBahn, Grounds, Cassady and Ruff. These commissioners must be reappointed, or their seats filled by other candidates, by July 2019.



WHERE ARE YOU?

Many of our readers receive Lifer-Line through via our mail tree, where volunteers will ‘adopt’ an inmate who doesn’t have a friend or family member in the outside to receive the newsletter via email to print and mail to them. And we’re happy to provide this service to those more than 400 in-need inmates, and grateful to our many volunteers who give up their time and actual finances to provide this service (some of our volunteers mail to 20 or more inmates—at roughly 50+ cents per letter for postage and supplies, that can add up). Which brings us to the current point.

We often receive newsletters returned from various institutions, when inmates have been transferred from that location. It happens, and we know your first priority when transferred isn’t to let us know you’re at a new spot, but come on guys. We’re providing you with a free service; the least you can do is let us know where to send that service without wasting OUR resources. So, here’s the deal. If we receive 2 newsletters returned because an inmate has moved and said inmate hasn’t bothered to let us know his new home—we’ll remove that individual from the mail list. We have a waiting list for inclusion on the mail tree, so there will be someone ready to receive, and appreciative of, that newsletter. Two issues mean 2 months—surely in that time you’ll have 5 minutes and a stamp to let us know where to send your FREE newsletter.

NOW MORE THAN EVER

We’ve frequently run survey forms in the newsletters; decision surveys, CRA surveys, and, most often, attorney performance surveys. And while our mantra has always been and remains ‘no attorney can get you a date if you aren’t ready and no attorney can lose you a date if you are ready,’ attorney performance helps and is important. Thus, the surveys.

We don’t discriminate, we ask for prisoner ratings on both private attorneys and those appointed by the state, and we’ve found great examples, as well as poor ones, in both categories. If you’ve been to a hearing within the last couple of years and haven’t responded to our attorney survey in that time, we’d like you to rethink that decision.

BPH has announced it will be modifying the manner in which attorneys for the state appointed list are selected, and performance will now be a real consideration of that selection. And where can they get reports of that performance? Well, to our mind, with the end users and that would be you, the prisoner.

And yes, you can write BPH with your thoughts and concerns, and in fact we urge you to do so. But we’d also ask that you respond to the following survey, as we’ve got several years of survey results we’d like to update and improve, all with an idea to providing this compendium of data to the BPH.

Be real and be realistic. Consider what we’re looking for here—was your attorney a help to you, or just a body sitting at the same side of the table? Did s/he give you support and advice on the day of the hearing or seem more interested in breaking for lunch. Did they know your name? Return your documents? Go above and beyond, or just barely make the cut? Inquiring minds (ours) want to know. And now is the time.

ATTORNEY SURVEY

Life Support Alliance is seeking information on the performance and reliability of state appointed attorneys in the lifer parole hearing process. Please fill out the form below in as much detail as possible, use extra sheets if needed. Please include your name, CDC number and date of hearing, as this will allow us to request and review actual transcripts; your name will be kept confidential if you desire. Details and facts are vital; simple yes or no answers are not particularly helpful. Mail to PO Box 277, Rancho Cordova, CA. 95741. We appreciate your help in addressing these issues.

NAME* _____ CDC #* _____ HEARING DATE* _____

COMMISSIONER _____ GRANTED/DENIED(YRS) _____

INITIAL/SUBSEQUENT (how many) _____ EVER FOUND SUITABLE/WHEN _____

ATTORNEY NAME:private/state* _____ PRISON _____

MET MEET BEFORE HRG? (# of times, length) _____ HOW FAR IN ADVANCE OF HRG? _____

TIME SPENT CONSULTING _____ OBJECT TO PSYCH EVAL? _____

LANGUAGE PROBLEMS? _____ WAS ATTORNEY PREPARED? _____

DID S/HE BRING ANY DOCS NEEDED? _____ SUGGEST STIP/WAIVE? _____

COMMENTS:

(Please provide details regarding attorney's performance, or lack of, including interaction with parole panel and/or any DAs and VNOK present. Was attorney attentive during pre-hearing meeting and hearing, did s/he provide support/advice to you? Was s/he knowledgeable re: your case and/or parole process? Had s/he read your C-file before meeting with you?)

*required