

As we've previously reported, SDMF went into effect a few months ago, and while there is no requirement that all commissioners follow the SDMF outline (and certainly some seem to more readily embrace the change than others), it is the 'coming attraction.' And, as LSA has stepped up our attendance at parole hearings to observe this new policy in action, it appears hearings are demonstrably shorter in duration, the rabbit hole trips are less frequent and, as of this date, the grant rate does not seem to be adversely impacted.

But—preparation for a hearing, always important, will now become critical. No more going into a hearing and hoping to simply bluff one's way through. And while that strategy seldom worked in the recent past, it certainly won't pass muster under SDMF. A key issue appears to be the use, importance and understanding of that old nemesis, the CRA. Long a source of information for the parole panel, the CRA now appears to be the first go-to document the panels will be checking for relevant factors of suitability.

It is, in fact, the first of the baker's dozen of areas or domains listed in the SDMF process and where the panels turn (as observation bears out) for the causative factors of the crime, development of insight and even whether or not parole plans are sufficient will be first noted. We posed a few cogent questions to BPH Executive Director Jennifer Shaffer on how the process works and can provide the following clarifying information from Ms. Shaffer.

(Q) Will the CRA become the most important domain or factor? (A) "I would not call it the most important, but all promising practices in discretionary parole decision-making support using a risk assessment as a starting point." Shaffer also notes that while CRAs are typically done only every 3 years, much can change in a prisoner's situation in that time; "We also find that some inmates learn a lot from reading their CRA; some can have an epiphany of sorts that changes their risk profile between the date they are interviewed by the clinical psychologist and their hearing date. It is up to the panel to determine which risk factors have been addressed and which remain currently relevant."

(Q) What if the inmate disagrees with facts or social factors identified in the CRA? (A) Shaffer noted time will still be allowed in the hearing to discuss these disagreements, but suggested, "[A]lthough I recommend that inmates (or their counsel) use the CRA objection process before the hearing whenever possible... to address any alleged factual errors contained in a CRA."

She cautioned, however, against honing in on small details and perhaps losing sight of the bigger picture. *"I think it is important for people to know that the panel is expected to spend the bulk of their time in the hearing addressing issues they identified when preparing for the hearing such as gaps or conflicts in the record; one such gap is a current measure of the inmate's rehabilitation/change. It is, therefore, conceivable that an inmate could think a particular issue in a CRA is factually incorrect and critically important to "set straight" on the record, whereas the panel may disagree about its importance and want to spend more time covering issues concerning the inmate's rehabilitation/change."*

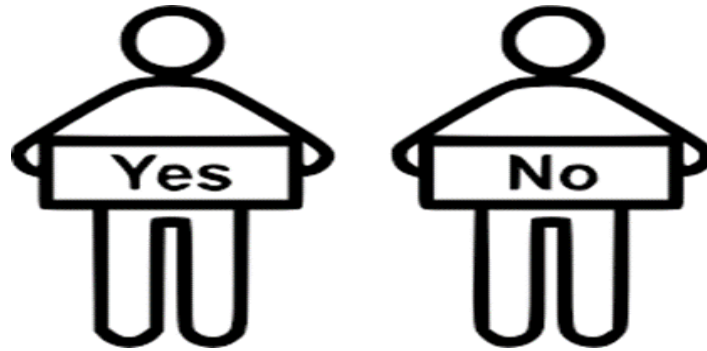
(Q) How are the especially relevant domains for each prisoner identified? (A) "If a particular domain is determined to aggravate an inmate's risk, the panel will look to see if the risk remains currently relevant – in other words, does it remain a risk today because the inmate has not addressed it (through informal or formal programming, growth and maturity, an epiphany, etc.)? Or is it a static risk factor that due to the passage of time is less probative of current risk? They will then consider the domains that mitigate the inmate's risk and the youth offender/elderly parole factors (if applicable) and determine if the inmate overall continues to pose an unreasonable risk to public safety."

(Q) If an inmate has not had access to programming the panel feels he needs to address the factors--

it that still an aggravating factor? (A) It depends on the risk factor and how relevant it is to the inmate's current dangerousness. Some risk factors can be addressed through informal programming, general growth and maturity, an epiphany, etc. Others may need more formal programming, especially if it remains currently relevant and it is a dynamic risk factor (such as substance abuse)."

(Q) What factors would be included in the 'case specific factor' domain? (A) "Examples of "case specific factors" may include an inmate's medical/physical/cognitive limitations, unique patterns of behavior associated with the inmate's past criminality that have continued."

(Q) What constitutes 'reliable' information from DA or victims regarding safety concerns? (A) "An example would be an inmate who is writing threatening letters to his victim. If this were to come up in a hearing for the first time, it is likely the hearing will be continued so the allegation could be investigated to determine if the information is reliable."



In summarizing the new SDMF practice Shaffer noted suitability still remains a balancing act, to be decided by the parole panels. *"It is important to note that just because one domain is determined to aggravate an inmate's risk, it will still be weighed against all the other factors that may be neutral or mitigate the inmate's risk. SDMF is intended to be a holistic approach to determining an inmate's current risk, not a numerical sum of aggravating versus mitigating risk factors. One aggravating risk factor may result in a denial because it outweighs all the mitigating risk factors, and one mitigating factor may result in a grant because it outweighs all the aggravating risk factors."* And indeed, the SDMF document specifically notes, 'The panel retains its full discretion when determining an offender's suitability for release.'

Of the 13 domains outlined (CRA; Criminal and Parole History; Offender Self Control; Programming; Institutional Behavior; Offender Change; Release (parole) Plan; Case-Specific Factors; Victim/DA Considerations; Youth Offender Factors; Elderly Parole Considerations; Intimate Partner Battering Consideration and Discordant Information), all but the CRA are evaluated in terms of whether that domain provides aggravating, mitigating or neutral factors to analysis of current risk.

If you want more information on the domains, what is considered aggravating, mitigating or neutral factors within the domains, send LSA a SASE (PO Box 277, Rancho Cordova, CA. 95741) and ask for the SDMF Worksheet. And let your family members know we'll soon have this information posted on our website (www.lifesupportalliance.org), along with other relevant and important information.

Bottom line: SDMF is here and appears to be quickly on the way to becoming the standard practice. Be prepared; know your CRA, your C-file, have good parole and relapse plans and take those plans to your psych interview. Exhibiting suitability has always been the responsibility of the prisoner, now more than ever.

DON'T NEGLECT YOUR HEALTH AND THESE FORMS

Heaven help the prisoner who develops a serious illness or injury while in the tender clutches of CDCR. While health care has marginally improved since the implementation of the federal receiver's oversight, each prisoner still needs someone on the outside to keep track of what's happening to them. But all too often inmates forget or neglect to make that oversight possible, by not completing the proper (and ever-present) CDCR forms.

Check your C-file—have you completed Form 7385, Authorization for Release of Health Care Information, which allows the department to release important health care information to the friend or family member of your choosing? If not, no one, regardless of their relationship to you, will be able to find out how you are, what's being done to treat you, even what ails you.

And be sure you follow up with Form 7421, the Advance Directive for Health Care, which allows you to decide who will make important decisions about your health care and life—someone who cares about you, not a staff member of CDCR. Be sure these are in your C-file and send a copy to the appropriate family or friends, as a precaution.

Your counselor should have these forms, they're available from CDCR or your family can find them on the internet—or if all else fails, send us a SASE and we'll provide. Stay safe, stay healthy and stay protected.



WHO'S NEW?

As we go to press, and the month comes to a crashing climax, there is still no word from Governor Newsom's office regarding any new or reappointed parole commissioners. The current panel of 15 commissioners is slated to expand by 2 new seats any time, bringing the number to 17, the additional commissioners added to handle the substantial increase in hearings anticipated in 2020.

And if that wasn't enough anticipation, 5 current and experienced commissioners will 'term out' at the end of July unless they are reappointed by the Governor. Or he could simply thank any or all the 5 for their service, allow them to fade into the sunset and appoint new faces to all those seats.

But so far, crickets.

A few years ago, the BPH began staggering the terms of commissioners, which allows governors to change substantial portions of the BPH board without adversely impacting the pace of hearings, as only a third of the entire board would conceivably be new and undergoing training at any one time.

Newsom has, however, appointed a new chief legal counsel, following his decision to move former BPH Chief Legal Counsel Jennifer Neill to the CDCR legal department. In late June he named Jessica Blonien to the post. Blonien comes to BPH following her time as supervising deputy attorney general at the California Department of Justice, Office of the Attorney General from 2008 until 2019. She was a deputy attorney general at the AG's office from 1998 to 2008.

We're haunting the Governor's news releases and website, ready to pounce on any announcement. Watch this space.



PREPARING FOR A FAD INTERVIEW

There is no real way to 'get ready' or 'study' for an interview with the FAD. When an inmate is scheduled for an interview s/he would be wise to take along important chronos or certificates, in case those are missing from the C-file. Also, it is advisable to take parole and relapse prevention plans, insofar as the inmate has those prepared, as the presence of solid plans in these areas are often referred to as 'mitigators' by the clinicians regarding an individual's risk assessment. Even if said plans are not yet complete, take what is available, as it shows the prisoner recognizes the importance of those plans and is working on them.

Inmates should approach the interview and the FAD clinician with the same serious and civil demeanor expected at a parole hearing. Honesty is ALWAYS advisable, as is a non-confrontational attitude. FAD clinicians are not the enemy, and inmates who engage during the interview with an adversarial approach will do themselves a dis-service. If there is a disagreement regarding facts in the C-file or POR, the inmate should calmly express his/her viewpoint and not become argumentative. Those differences can be discussed at the parole hearing as well.

Inmates should approach the FAD interview as a pre-parole rehearsal and be ready to discuss any areas of their life, crime and post-incarceration behavior the clinicians wish to delve into. And, again, honesty and civility are the watchwords. If you disagree with a statement of supposed fact, calmly explain your viewpoint, but do not argue. The clinician is looking at how you handle stressful situations and manifest anger. Be aware of what's in your file that is likely to come up for discussion.

To request a new CRA, write to Board of Parole Hearing. Legal Division, P.O. Box 4036, Sacramento, Ca. 95812. Note CRA REVIEW on the envelope.

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