LIFE SUPPORT ALLIANCE
(916) 743-1654
(916) 402-3750

Public Safety and Fiscal Responsibility

DECEMBER 2011 *LIFER-LINE* VOL. 2 ISSUE 12

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2011

BREAKING NEWS: SB 391 "Parole Reform" Bill is DEAD.

As we went to press LSA received word that SB 391, a bill dangerous to the liberty interests of lifers and the fiscal health of California, was pulled by its author from Public Safety Committee consideration. LSA has been in the forefront of opposition to this bill since before it was formally introduced. Gaines sought to legislatively overturn the Lawrence decision and allow the parole board to deny parole to lifer based on the life crime alone.

Our members and supporters bombarded Senate offices this week with letters and calls in opposition to this bill and today, just 3 days before it was slated to be heard in Senate Public Safety Committee, Gaines threw in the towel. Thanks to all those who weighed in on this nasty piece of legislation—and score one for the good guys!

Board of Parole Hearings Headquarters in Sacramento

WHAT PAROLE HEARINGS HAVE TAUGHT US

As reported in a previous issue of Lifer-Line, members of Life Support Alliance's executive board have been granted permission to attend parole hearings as non-participating observers. Since August of 2011 we have been in attendance at assorted hearings in a number of prisons and plan continue this monitoring activity in 2012. Our attendance at parole hearings marks the first time in dozens of years that stakeholders, other than attorneys, members of the media or Senate staffers, have been allowed to sit in on parole hearings.

We do not participate in the hearings, other than to identify ourselves for the record, but we do listen carefully, make copious notes and offer observations to Board of Parole Hearings Executive Director Jennifer Shaffer. These observations cover the gamete of hearing procedures and we do our best to note and comment on the good, the bad and the truly ugly; and there have been several incidences of all three categories.

LSA undertook attendance in parole hearings in an effort to gain understanding ("insight" if you will) into the hearing process and the standards used by commissioners to determine suitability of prisoners. While we have reviewed literally

hundreds of hearing transcripts and have gleaned from them much useful information, transcripts are one-dimensional and are no substitute for watching hearings unfold. Each parole panel, indeed, each prison, adds a different ambiance to the proceedings.

There are, however, several common threads running through hearings, virtually independent of who the commissioners are. In recent years the courts have granted parole commissioners what the courts have termed "broad discretion" in determining what factors are markers of parole suitability and how much importance or weight those factors carry. This was reiterated most recently in the late December California Supreme Court Shaputis II decision.

Herewith put forth those factors we have found to be the most frequently discussed and considered by current panels. As always, we remind our readers LSA is not an attorney group and we are not proffering legal advice; we are merely reporting what we have found to be the factors parole panels are currently considering.

Of all aspects of suitability considered by the panels the one most often discussed, mentioned and considered is self-help, a rather undefined and nebulous term that can mean anything from attendance at AA meetings to book reports. But by far the question most often asked potential parolees is whether they have attended AA/NA meetings, and if not, why not. Although many prisoners are reluctant to attend AA meetings because of the spiritual basis of the organization, it is, for better or worse, right or wrong, the hands down favorite of commissioners. This is not to suggest it is the only acceptable self-help program, but it is the best known, best documented and best understood by the commissioners and therefore the leading contender.

Other self-help strategies are viable, but the panels seem most accepting of those individualized activities that are tied to an organized program. Many prisoners who are unable to access AA/NA programs or for whom such programs are not comfortable have produced viable self-help strategies by reading self-help books and writing reports. These, however, are not your high school English class book reports. The books should be germane to character improvement on such issues as substance abuse, anger management and empathy and the reports need to be more than just a recitation of content; commissioners routinely ask prisoners what specifically they gained from reading the books and how they are prepared to apply those lessons to their lives.

And they are quick to identify and discount what they term "catch phrases," or words straight from the text; be prepared to put these ideas in your own words, even the 12 steps of AA. Commissioners often ask participants not only to identify a certain step of the 12 but also to explain how they use that step in their lives. Similarly, commissioners often question prisoners as to what they have learned from other self-help classes and how they are prepared to use these new tools in their return to society. Participation in any and all self-help programs, though they are often few and far between in some institutions, is looked at favorably the commissioners.

In all hearings the prisoners' "institutional history," or accumulation of disciplinary chronos, is discussed in great detail. And while commissioners will often discuss 115s that are years, sometimes decades old, those that seem to impact the outcome of hearings most are those involving violence, contraband and, most lately, cell phones. And, of course, the more recent the disciplinary action or the larger the number, the more problematic it is. This is one area in particular, where the advice and intervention of a competent attorney may make a significant difference and is also an area where the difference in commissioners is most apparent, as some seem able to get past old write ups easier than others.

A word here about attorneys. It has long been conventional wisdom that state-appointed attorneys do a less stellar job than those privately retained by prisoners. This problem was even briefly discussed in last year's commissioner confirmation hearings, when one commissioner confirmed for Senate Rules Committee members that at times the difference between a prisoner being granted a parole date or receiving a denial could be the attorney and moreover that private attorneys often had a better success rate. The parole hearings LSA has attended have been largely populated by state appointed attorneys; they have, on the whole, been routinely competent and in a few cases, notable advocates. But there have also been cases when even untrained legal eyes, such as ours, could note the failures. This is a major problem in the parole process that we hope to address with the BPH in coming months.

Commissioners often examine in significant detail the parole plans and support letters presented by prisoners. Recently the commissioners have seemed to look with favor on those plans that include residence in transitional housing for 30-90 days immediately following parole. Even if the prisoner has family to whose home he could parole, the commissioners often make the case that readjustment to society after decades in prison is a daunting task (no surprise there) and transitional living facilities often provide a buffer that is helpful to that readjustment. Although not required, it is a component that is frequently viewed and commented on by the commissioners as being part of a realistic and well thought out plan and makes them more comfortable about the prisoners' chances for success.

Support letters are always noted, and those that are not dated (recent dates) and signed receive less consideration than those meeting those standards. So, if your family wrote support letters for your last hearing be it one, two, three or more years ago, be sure to get updated letters before your next hearing. And ask for specifics in what sort of support is being offered; financial, housing, transportation and the like. General, unspecified support is also considered but the specifics are duly noted by the panel.

Commissioners often ask how often prisoners are in contact with their supporters and family members and how they maintain that contact. Many seem to understand the importance of family ties and unity and react positively when inmates can relate they have frequent family contact and visits, indicating the board equates this contact and support with successful parole and re-entry.

It is worth noting that after a parole grant is given the BPH's Investigative Services branch goes to work, confirming all parole plans set forth. They will contact housing, employment and other aspects of a prisoner's parole plans to confirm the information and check there are no untenable restrictions in housing and other issues. If a segment of the parole plan proves unattainable it may delay the parolee's release until that faulty segment can be corrected.

One of the most controversial of these areas of "broad discretion" is the use of psychological evaluations of lifers prepared by the BPH's infamous Forensic Assessment Division (FAD). While LSA continues to fight against these "evaluations" in their current form and content the evals none the less remain, for the present, one of the components of parole suitability considered by the board. It would seem to behoove those preparing for their hearings to be sure they and their attorneys have adequate time to review the psych eval and note any factual errors (not uncommon) as well as conclusions offered by the psychologist that may be unfavorable to the prisoner. Unfortunately it is not uncommon for the prisoner to receive the psych eval only days before the hearing date and the attorney not to have access to the report until the day of the hearing. In such situations an attorney's advice can be crucial.

Although prisoners are entitled to present oral or written explanation or disagreement with the psych evals, in all frankness, most commissioners seem to give these presentations only cursory consideration. Thus it remains vital that we continue our battle to make the FAD competent and fair, or better yet, disbanded.

While the law allows attending Deputy District Attorneys to pose "clarifying" questions to the panel, often, through inattention by the panel members or aggressiveness of DAs combined with laxness of prisoner's counsel, the DA's questions are posed directly to the prisoner. While this is a breach in hearing protocol it may or may not be corrected by the panel members. In such situations it appears to serve the prisoners well to direct their answers to the parole commissioners, not directly to the Deputy District Attorney.

And lastly, a word about attitude. The various parole commissioners exhibit a range of personalities and attitudes, but none seem short on ego. It appears to be more important to give a thoughtful, measured answer to questions, even if it takes a few moments to formulate that answer than to come back with a quick, snappy and top-of-the-head reply. Prisoners are allowed to confer with their counsel during hearings, should they feel the need for advice or clarification—and should avail themselves of that assistance. Commissioners often ask prisoners if they feel their life sentence was fair; a trick question if ever there was one.

Commissioners also seem receptive to short rather than long form answers; sadly, LSA observers have watched more than one inmate talk himself out of a parole grant. It is also important to remember words and actions in play after the decision is announced can be and often are included in the official record of the hearing. If a denial provokes an expression of anger or exasperation from the inmate, such response is often duly commented on and noted by the commissioners. Such incidents, included in the record of the hearing, will then be read by the next hearing panel, possibly to the detriment of the inmate.

Decorum and respectful interaction are watchwords for prisoners, even if that same respectful attitude is not exhibited by the commissioners. And sometimes it is not.

LSA CONTACT INFORMATION

Mail us at PO Box 3101, Rancho Cordova, Ca. 95741; email at lifesupportalliance@gmail.com;
website, www.lifesupportalliance.org.

HAVE YOU SEEN THESE PEOPLE?


Figeuroa


Fritz


Moseley


Turner


Robles

Pictured above are five parole commissioners appointed last summer by Gov. Jerry Brown and up for confirmation hearings in April, 2012. LSA will testify at the hearings, in support or opposition to these commissioners. Our decision on whether to support or oppose depends on their performance, adherence to the law and reasonable consideration.

We do not expect these or any commissioners to grant parole in every case, nor do we expect to always agree with their decisions. We do, however, expect them to hold fair and just hearings and to understand the lifer population. If you have had a parole hearing before any of these commissioners, we want your input. Complete our lifer parole hearing survey or simply write to us, detailing the performance of the commissioner, the outcome of the hearing and where you feel the pane either fell short of expectations of fairness or were up to professional standards.

We are interested in the reasons given for denail, comments made by commissioners that may have indicated a pre-disposition toward a decision and their discussion and use of psychological evaluations.

Mail this informaiton to LSA at PO Box 3103, Rancho Cordova, Ca. 95741. Today! April is rapidly approaching.

CDCR COMES (A LITTLE BIT) CLEAN ON LIFERS

For nearly a year LSA has been touting the miniscule recidivism rate of paroled lifers: less than 1%. We consistently report that of 988 prisoners convicted of first or second degree murder and parole in the last 21 years only about a dozen have re-offended, the most serious charge being robbery.

Finally the CDCR has officially, if quietly, recognized and admitted—lifers don't recidivate.

In a report dated Nov. 23, 2011 but released only a couple of weeks ago, the *2011 Adult Institutions Outcome Evaluation Report,* the CDCR's vaulted Office of Research serves up in Appendix C figures only slightly different from those LSA has been touting these many months. In Appendix C, somewhat disingenuously named "Post Release Criminal Activity of Convicted Murders Who Have Paroled Since 1995," (whew!) the department details the "criminal activity" of 85 former lifers released since 1995.

And their criminal activity? Pretty lacking, actually. Of the 860, released in that 15 year span, five (5) have been returned for new crimes, one each for second degree burglary, petty theft, robbery and two for possession of a weapon. And while the report rounds this calculation up to a 1% recidivism rate, if we are to be mathematically correct (and let's be correct) it is really **only .58%.** And please note, no assaults, no murders, no kidnapping, no life-sentence eligible crimes. We rest our case.

A reminder: LSA is not a legal firm; we cannot represent you or offer legal advice. We cannot offer employment or housing; we do not have the resources to perform research or advocate for individual prisoners on their unique issues. Nor are we a pen-pal or social networking service. We advocate for lifers, focusing on issues that affect the lifer population as a whole. All our resources and efforts are directed to this goal. We welcome your letters but cannot guarantee an individual or quick reply. Our newsletter is provided free of charge; however, if a friend or family member can receive the newsletter via email and mail it to you that greatly reduces our mailing costs. Stamps are welcome, preferred to SASE. The parole of lifers is our cause.