



PTA AND AR SUCCESS RATES

In the past year, give or take, the BPH initiated two new policies of reviewing parole denials, with an eye toward possibly advancing that inmate's hearing, if that review shows significant progress. And at the end of every parole hearing resulting in denial commissioners are careful to advise the prisoner that he/she can file a Petition to Advance (PTA), Form 1045A, to seek an advanced hearing. And for all 3 year denials given since July 1, 2012 the board's legal team now reviews (Administrative Review, or AR) those denials 12 months after the hearing and will recommend an advanced hearing, again, if significant progress is perceived.

Naturally, the next question is: what's the point in a PTA or AR? Are these procedures working and making a difference? Inquiring minds, ours, wanted to know and so we posed that question to the BPH. In line with the increased transparency and openness instituted under the leadership of Executive Director Jennifer Shaffer, the information was quickly forthcoming. High marks to Ms. Shaffer and BPH Chief Legal Counsel Howard Moseley, for their willingness to provide relevant information to the public and most especially the end users of the parole system, prisoners.

And how do the results look? Much like those for parole hearings held in the natural schedule. Overall, about 24% of hearings advanced through the PTA process resulted in a grant and about 29.5% of those advanced through the AR system were successful. That's pretty close to the grant rate of regularly scheduled hearings, which fluctuates monthly, between about 24 and 28%.

BPH officials have reported about 58% of PTAs submitted by prisoners are approved, resulting in an advanced hearing and we receive reports from prisoners who are surprised, not having filed a PTA, when they receive notice that their hearings are being moved up as the result of an AR. And while both these actions appear to be positive moves, we also receive many letters from those who, having

had that advanced hearing, are once again found **unsuitable**. Clearly, to receive notice that a hearing has been advanced appears to send a signal that things are looking up; to receive a denial after that is particularly crushing.

In the 18 months between January, 2013 and June, 2014 the BPH received 1,251 PTAs, of which 724, or about 58%, were granted, resulting in an advanced hearing, with 174 grants handed out. Although in operation a shorter time, the AR process appears to show similar results. The AR process has so far reviewed 957 3-year denials handed down between July 1, 2012 and June, 30, 2013 (the reviews are conducted about 1 year after the hearing) and has advanced hearings in 508 of those instances, with 150 grants given at the advanced hearings.

It is important for those inmates considering filing a PTA request to remember that those requests are first screened out on the 'merit' of the petition. The 1045A form asks for the changed facts or circumstances the prisoner feels merits an advanced hearing, and there must be substantial input in this field. A PTA will not be advanced for review, much less granted, if the only change in circumstance is the passage of time. And be ready-- after having their PTA granted, 6 individuals waived that advanced hearing and another 88 postponed.

The overriding question is whether the two paths to an early hearing result in prisoners going home sooner than through the natural sequence of hearings scheduled after a denial. And that, we don't know. While the BPH has begun tabulating how many hearings are advanced and through what process as well as how many such advanced sessions result in grants, they are not tracking, at least so far, whether those hearings resulting in a denial actually add more incarceration time.

115s/PRESCRIBED MEDS—KEEP 'EM COMING

We continue to receive documentation from prisoners, taking prescribed medications, who are issued 115 RVRs after 'failing' a random UA test. As we have previously reported, this is not an acceptable practice, even by CDCR standards. We have been able to successfully bring this problem to the attention of both CDCR administration and the legislature and many, previously found guilty of the RVR violation, have seen those notices dismissed and removed.

But we are still receiving notification of these, from almost any perspective, bogus RVRs. We haven't given up and we haven't stopped our efforts. If you received a 115 after a random UA and you are taking legitimately prescribed drugs (the most common culprit seems to be Tylenol with Codeine) then send us your paperwork, including the write up, proof of prescribed meds, any actions taken at committee and whatever else you may have. We'll do all we can to have that false RVR dismissed, as CDCR is fond of saying 'in the interest of justice.'

Similarly, if your 115 was so dismissed and you're still suffering loss of privileges from that unjust finding, let us know about that as well. In all cases, what we need to move forward is documentation of both the RVR and your meds.

In all cases, 115s can make a huge impact on both conditions under which you do your time, but for lifers they are especially impacting, as a 115 for drug use can mean a denial or longer than expected denial of parole suitability. In addition to speaking with CDCR and the legislature we have brought this issue to the attention of the Board of Parole hearings and urged commissioners who might

encounter this situation at a hearing to do a bit of investigating before making this the deciding factor in suitability.

We're here to help, but in this narrow focus, we're only dealing here with write ups unwarrantedly received for the use of legitimately prescribed drugs. If you're fighting a 115 for another reason or are supplementing your legal meds with other stuff, we probably can't help you.



TO JUDGE OR NOT TO JUDGE

“A rose by any other name may smell as sweet, but a Deputy Commissioner by any other name is just confusing.”

After receiving letters from several inmates asking why a ‘judge’ suddenly appeared on the panel at their parole hearing, LSA began to do a bit of checking, and, after attendance at a few parole hearings found the answer. Under a personnel qualification change implemented by the BPH in an effort to provide better trained individuals to serve in the Deputy Commissioner spot those hired for that position going forward must be qualified to be Administrative Law Judges, a nice title for someone trained as an attorney.

Some Deputy Commissioners were apparently so struck with the new title they began using it at parole hearings, introducing themselves on record as “Judge.” A bit confusing, and a bit concerning. Frankly, had it not been for the confusion factor, we would have found it somewhat amusing.

But, there was that pesky confusion factor. The presence of a judge conjures up all sorts of rumors and questions, and we heard them all. Among the questions: will my sentence be changed? Can I introduce new evidence? Where should I file an appeal—where is this new judge from? Even some attorneys, not yet aware of the change in title, asked just who was presiding at the hearing—the Commissioner or the “judge?”

So we asked of the BPH administration, what’s the policy going forward and even brought the subject up at the monthly Executive Board meeting, asking the Board to consider rescinding the use of the honorary title Judge at hearings, in the interest of clarity. And our concerns were heard.

A memo from BPH administration issued shortly after we made our query announced that going forward, all DCs would in fact, remain DCs in name as well as practice. So, if you had a ‘judge’ at your recent hearing—no worries. Only the name was changed to, well, certainly not to protect the innocent.

REAPPOINTMENTS, RESIGNATIONS AND RECENT PICKS

It's that time again, time for Governor Brown to appoint and/or reappoint several commissioners to the BPH stable. And so he has, reappointing a half dozen sitting commissioners for another 3 year term and naming a new commissioner as well.

Recent months also saw the resignation of Commissioner Richard Guerrero, who decided, for unspecified reasons, not to sit for confirmation as a commissioner, thereby giving up his position after a single year. In recent days Brown has named Michele Minor, 53, of Galt, to fill Guerrero's empty chair.

Minor has served in several capacities within CDCR and is currently Project Manager at the Richard A. McGee Correctional Training Center. Since 1985 she has been a Deputy Director at the Office of Rehabilitative Programs, Program Administrator at the Stockton Training Center, Lieutenant at the Division of Juvenile Justice, Sergeant at the California Youth Authority and Officer at the Herman G. Stark Youth Correctional Facility.

Reappointed were Commissioners John Peck, Brian Roberts, Terri Turner, Marisela Montes, Amarit Singh and Jack Garner. Turner, Montes, Singh and Roberts are ending their first terms as full commissioners; Peck and Garner are veterans of the battle. Following reappointment these six will be considered by the Senate Rules Committee, which will recommend their confirmation (or not) by the full Senate.

Confirmation hearings in Senate Rules are open to the public, with input from stakeholders encouraged and actually considered prior to the senators voting yea or nay. Past confirmations for various commissioners has seen LSA/CLN as sometimes the lone speaker at the hearings and we will be there again this time.

Whether we support, oppose or take no position on these commissioners depends on how we evaluate their performance in adhering to the law, providing adequate consideration for prisoners (and their attorneys) and how sound their decisions are. We do not base our decisions on number or percentage of grants, but rather how well commissioners understand and apply the laws, regulations and policies affecting parole decisions.

That's where you, our readers come in. We can't make it to all parole hearings, so we're asking for your input. You, the prisoner, after all, are the ultimate stakeholder in this process. If you've had a recent—or even not so recent—hearing chaired by any of the above commissioners, let us know how things went. Not just if you got a grant or not, but how you were treated, how your hearing went and if you felt you got fair consideration.

We're interested in all facets. Send us your concerns, along with your name, CDC # and hearing date, so we can check those transcripts. And remember, as with attorneys, just being denied parole is not the sole indication of any given commissioner's impartiality or performance.

Send all correspondence to: P.O. BOX 277, Rancho Cordova, CA. 95741. Please indicate on the envelope you are sending comments on commissioners. If your information is used in our discussion all identifying markers will be redacted.

BEARD: CLEAN UP YOUR OWN HOUSE FIRST

In a recent article Sec. of Corrections Jeffrey Beard attempts to justify the new and Draconian measures the California Department of Corrections is instituting for interdicting drugs by citing the dangers of drug debts leading to gang activity, violence and increased addiction for those who are released after serving their sentence. All true. However, Beard lays the onus for this activity squarely on the visitors, friends and family of inmates in the prisons. That is decidedly not true. And no one in their right mind would make a case for smuggling any contraband into prisons.

But to counteract this menace Beard is bringing in drug sniffing dogs and ion scanners to be used on prisoners *and visitors* to detect drugs and that other scourge of society, cell phones. All of course, on an 'emergency basis.' He claims that 'every weekend' visitors are arrested for attempting to smuggle in drugs. Also true. And he claims so far this year some 270+ visitors have been arrested. Maybe...

But considering that in any one weekend even at the modest rate of maybe 800 per prison per weekend, given the number of prisons in California (36 at last count) and at 52 weekends per year...well, you do the math. That's an enormous number of visitors. Even if another 270 were arrested by the end of this year, that's still a small percentage compared to the numbers of visitors intent on nothing more than seeing their loved one who is in prison.

But in all the justification for the new measures going in under Beard's watch the Secretary never mentions the well-known, privately acknowledged fact that while visitors may bring in small amounts of drugs, the importation of trafficable amounts of drugs comes in not through visitors, but through staff at the prisons, including custody staff. And nearly all cell phone trafficking is done by staff, often to the tune of more than \$100,000 per year in unreported cash.

The media has been rife in recent years with reports of officers, from sheriff's deputies to guards in state and federal prisons, being caught with contraband. In the first 6 months of 2013 alone 54 guards were found to have smuggled cell phones into prisons, according to California's own Inspector General.

Visitors to prisons already go through a rigorous screening process, but--guards, prison staff and volunteers come and go pretty much at will. Metal detectors are by-passed, guards and familiar faces are waved through with a high-five salute.

If visitors trigger an 'alert' by dogs or scanners their only recourse is to submit to an unclothed body search. Staff and volunteers? Oh, they will receive a pat down and if nothing is found, such as, say a 5 pound bag of weed hidden in their pant leg, they can go ahead and enter. With whatever they're carrying.

So how about a little true transparency and truth from the Secretary of Corrections? Clean up your own house first, Jeff, and then come after the nickel and dime stuff brought in by visitors. And in the meantime, if you're going to introduce Gestapo tactics in trying to stop contraband coming into prisons, at least be honest and even handed enough to apply the same standards to visitors and staff.

Anyone caught bringing contraband into prisons should face stiff penalties—and if they happen to be sworn custody staff, sworn to uphold the law and protect the citizenry of the state, maybe, just maybe, the price should be even higher.

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 probative. 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 _____ EVER FOUND SUITABLE/WHEN _____

ATTORNEY _____ HRG. LOCATION _____

MEET BEFORE HRG? _____ TIME SPENT CONSULTING _____

OBJECT TO MARSY'S LAW? _____ OBJECT TO PSYCH EVAL? _____

LANGUAGE PROBLEMS? _____ WAS ATTORNEY PREPARED? _____

Please provide details regarding attorney's performance, or lack of, including interaction with parole panel and/or any DAs present. Was attorney attentive during hearing, did s/he provide support/advice to you? Was s/he knowledgeable re: your case and/or parole process?

*required