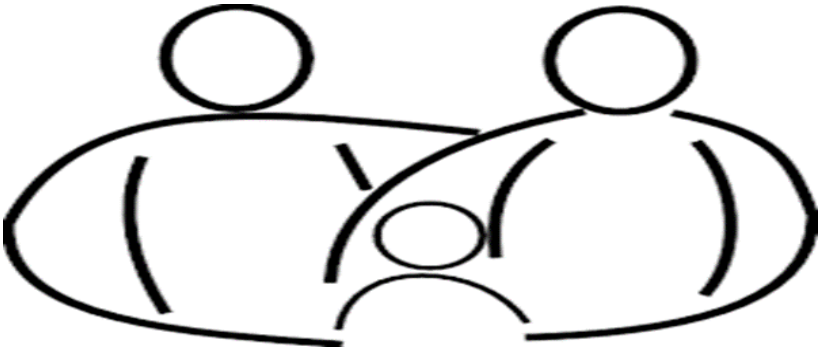
LIFE SUPPORT ALLIANCE

Public Safety and Fiscal Responsibility

P.O.Box 277, Rancho Cordova, CA. 95741
lifesupportalliance@gmail.com

FEBRUARY 2017 *LIFER-LINE* VOL. 8 ISSUE 2

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2017



THE FAMILY VISIT MARATHON: FINISH LINE IN SIGHT?

It all seemed so simple, those many months ago. Language in the 2017-18 state budget clearly and decisively said, family visits would be made available to lifers and LWOP inmates. We saw those words in the budget bill on June 30. On July 1, we met with officials at CDCR for updates on several issues and asked about family visits—when?

'Right away!' we heard. 'As soon as possible!' 'The money in the budget allows for the re-writing of regulations to include lifers and LWOPs.' By the end of the year, we asked? 'We hope so, we think so' we heard. And so the waiting began. As did the delays.

'Writing new regs is time consuming; many factions have to be consulted (here, read unions, most especially CCPOA, which fears the 'new' practice will increase the workload of custody staff….yeah); then the regs have to be vetted by the attorneys, then opened for public comment, then adopted. Then of course, there has to be new training for staff.' That one really is a puzzlement, as family visits have been going on in all the years since they were snatched away from lifers; one would think 'staff' would be trained by now. Even the slow learners.

Latest update: On February 17 Secretary of Corrections Scott Kernan issued a memo to all facilities including the following language: "inmates shall not be prohibited from family visits based solely on the fact that the inmate was sentenced to Life Without the Possibility of Parole (LWOP) or was sentenced to Life and is without a parole date established by the Board of Parole Hearings."
"Processing requests for eligibility review of Life Term inmates will take effect on February 20, 2017. Please ensure all Correctional Counselors receive a copy of the memorandum."

The memo also notes those inmates will be screened under the existing Title 15 Section 3177, which includes the following criteria:

- Work Group A, B or F only (no C or D)
- No condemned, close or maximum custody
- No prior convection for violent offenses involving a minor or family member or sex offense

- Those with substantial documented evidence or information of misconduct without criminal conviction
- No guilty findings of in-prison narcotics distribution
- No Division A or B offenses within 12 months

In addition, only immediate family members, defined in Title 15, Section 3000 will be authorized to participate in family visits, including registered domestic partners. But immediate family is more than just wives; parents, siblings, children are included. Currently processing requests will be in the order they are received.

In a second memo, the same day, from Director of Adult Institutions Kathleen Allison, counselors are reminded to consider both current case factors, institutional behavior and escape history in making a determination of eligibility. If unable to so do, the decision is to be referred up the 'food chain' to CC II or classification committee.

Proof of marriage or registered domestic partnership is required, and a certified copy of those certificates must be submitted at each visit, and the memo notes "Once an application is submitted, no changes or substitutions of visitors shall be permitted."

So, yes, family visiting is moving along, at a snail's pace only CDCR could achieve, and with every step creating more questions. Still to come, we expect, are new regulations which may remove some of the current restrictions on who can participate (we've been asking particularly about the minor victim item; those with minor victims were often themselves minors at the time of the crime, a fact recognized by YOPH. To screen them out of this important rehabilitation and reentry process seems counterproductive).

We don't expect this to be the final stop on the journey to total restoration of family visits for lifers, but it is a major milestone along the way. As more details and changes filter out, we'll do our best to keep you up to date.

THE FINAL 14. FOR NOW

Anticipating an increase in the number of proceedings requiring the participation of parole commissioners (an increase in the number of YOPH and elderly hearings, and three-strikers beginning to come into the hearing cycle and now Prop. 57 inmates), the number of BPH commissioners was increased in this year's budget for CDCR. Though expanded from 12 to a total of 14 members, the board has had a bit of trouble reaching, and holding, that number.

Late last summer former Commissioner Elizabeth Richardson resigned, leaving the board at 11 members. Shortly afterward, Gov. Brown appointed former warden Randolph Grounds, bringing the body back up to full strength. In late November Brown added numbers 13 and 14, in the persons of Patricia Cassady and Troy Taira, both long-time deputy commissioners, appointed as commissioners. This was followed, in very short order, by the resignation of Commissioner Ali Zarrinnam; back down to a 13-member board. The latest development; in late January, the Governor once again got the board back up to quota, appointing yet another former CDCR veteran, Michael Ruff, to the board.

Currently four commissioners await confirmation by the Senate, before being totally secure in their job, but, following a brief training period, all will be presiding at hearings until that confirmation process.

DECISION REVIEW REQUESTS; CAN HELP, CAN'T HURT

Most lifers are aware that if they are denied parole they can file action in court, a writ of habeas corpus (writ), challenging the legal basis for the denial. This long-time avenue of seeking relief for lifers is used less often now, and while some writs are still successful they are costly, both financially and in time and resources. And, these days, they are not frequently successful. Which is not to say prisoners must simply sit and wait out a denial length. There are other actions you can take.

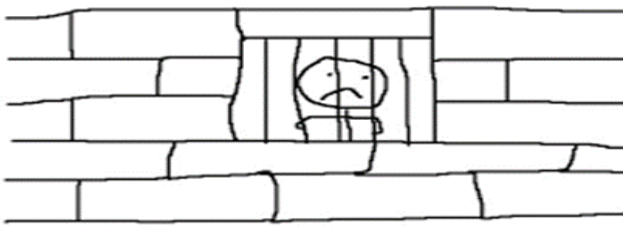
One of those actions is to request a Decision Review on your hearing. Basically, attorneys from BPH will review the transcript of the hearing, with an eye to legal errors in the commissioners' reasoning or actions, as well as a denial length that is excessive. The attorneys can suggest the decision be vacated and a new hearing held, if the errors they note could potentially make that decision vulnerable to being overturned by the court, but they can also reduce the denial length. Yes, on their own, with a Miscellaneous Decision, BPH attorneys can reduce the length of parole denial; but they cannot increase the denial time. They can do nothing that would be adverse to the inmate without a new hearing.

But, and here's the really important fact, the request for decision review must be done within the Board's legal window for review, 120 days from the decision. So your time is limited to request this action. You can request it right away, but the attorneys at BPH will not be able to actually do the review until they get that all-important transcript, no more than 30 days after the hearing. But they can often get is sooner. It might behoove you, however, to wait for the transcript, and then go over it carefully, paying particular attention to the decision portion, for those factors that the commissioners felt supported denial and then find how those factors are addressed in the hearing itself.

If you feel there are errors, or that, given the facts presented, you were saddled with an excessively long denial, request the decision review. It won't damage your chances at the next hearing, make you wait longer for that hearing or put you in the spotlight.

If you decide to request a Decision Review (and don't confuse this with a PTA), you should write to the BPH legal department and state your request, lay out for the attorneys at BPH why you feel the denial and/or length was unwarranted, providing references to pages and lines in the transcript if possible. If you're trying for a reduction of denial length and have examples you can offer of why the time is excessive, do so.

There are 3 results than can come from a Decision Review request, and two of them are positive for prisoners: no change, the denial and length remain the same; the denial is vacated and a new hearing ordered, or, the denial length is reduced. If you decide to request a decision review, send your request and documentation to: Board of Parole Hearings, Attn: Legal Division, Decision Review; Post Office Box 4036 Sacramento, CA 95812-4036. It's worth the chance.



NON-DESIGNATED PROGRAMMING FACILITIES, OR MIXED YARDS

Get along, or 'get along,' to somewhere else.

Over the years CDCR has attempted many strategies to deal with prison violence, gangs and racial tensions, from strictly segregating inmates by race to required in-cell integration (that one raised eyebrows and blood pressure everywhere). Laudable aims and not unrealistic, given that when inmates return to society they must learn to get along with all factions and cohorts without resorting to violence. Unless they want to become inmates again.

One of the most extensive of these efforts was the creation of Sensitive Needs Yards (SNY); prisoners housed on SNYs ran the gamut of individuals, from those who would be targets on GP yards for a variety of reasons to those who were simply tired of prison politics and wanted to opt-out. About a decade ago, when SNYs were new and promising, one high ranking CDCR official told LSA that the department hoped to convince 51% of the inmate population to go on SNYs, and if that happened, SNY yards would become the new GP.

Of course, that didn't happen and SNYs eventually proved to have their own set of problems, including formation of gangs even among those who supposedly wanted out of prison politics. Now comes a new policy from CDCR, once again attempting to answer the question, "Can't we all just get along?"

In a memo dated December 5, 2016 and signed by Kathleen Allison, the Director of Adult Institutions explains non-designated programming facilities (PF) will provide a housing environment for inmates 'demonstrating positive programming efforts and a desire to not get involved in the destructive cycles of violence.' The memo continues, "CDCR's Level I and Level II housing facilities, which currently house a large population of programming inmates, will slowly be transitioned into non-designated PF facilities. This will allow for greater access to lower level housing and therefore, greater privileges. Rehabilitative programs will also be available, such as Education, Vocation and Religious Activities, as well as a variety of Inmate Leisure Time Activity Groups (ILTAGS) and Self-Help Programs."

As prisoners come up for their annual classification committee review, if the institution where they are currently housed has been designated as a PF, "classification committees [will] evaluate all eligible positive programming inmate[s], regardless of prior housing designations. As a non-designated PF, it is expected that all inmate[s] will program together" within the mission of the facility and will be expected to "comply with integrated housing expectations, regardless of prior GP or SNY programming or level designations."

Meaning, what? Meaning that as more and more institutions are converted to PF status and away from the creation of more SNY yards, more and more inmates will have to make the choice: program, with everyone, or those who are "non-compliant with transfer and/or housing placement

recommendation shall be subject to the department disciplinary process and potential placement into higher level housing." Which means everyone must, to at least a certain extent, interact with everyone else.

You don't have to like it, agree with it, or enjoy it. But you do have to 'get along.'

And so it is, once released. To not do so, to express those old anti-social tendencies, those criminogenic needs again, is to guarantee a ticket back to CDCR. Where, if you want to have access to privileges and opportunities for ILTAGs, vocations and other actives—you'll have to agree to get along with everyone.

TIPS FROM HEARINGS

1. Be sure to speak when answering questions—the transcriber can't hear nods of the head
2. Don't interrupt the panel members—they'll let you know when they've finished their questions and want your response.
3. Don't use 'bad decisions' as the reason for your crime; bad decisions lead to wearing brown socks with a black suit, not committing a crime.
4. If AA is part of your recovery, know the 12 steps; if you can't memorize all of them, know which one is most important to you.
5. Ask your attorney what questions he's likely to ask you—you don't want any surprises there.
6. Don't say you'll deal with anger and stress by never getting mad or letting yourself get stressed. Reality check—it will happen, but it's how you deal with it that matters.
7. If you have victims at your hearing, keep your eyes focused on the panel during their statements. The commissioners understand this, and the better ones will tell you to do so.
8. Wait for the commissioners to paraphrase or repeat clarifying questions from the DA—and then answer the commissioner. The DAs are not to question you directly, and commissioners sometimes decide some questions are irrelevant and don't require you to answer.
9. If you start to feel stressed and overcome, don't be afraid to ask for a short break; chances are, the panel members could use one too.
10. Don't try to impress anyone with your vocabulary. Even if you know what that 11-letter word means and when to use it (and chances are pretty good that you only think you know), this is a place to keep it simple.
11. If you are denied, don't become angry. Look at it as a temporary setback and read your transcript for where you need work and improvement. Showing your anger at a disappointment is proof to the panel that you might be dangerous.
12. Be honest. Don't take the blame for something you did not do, and don't try to make yourself look good. Honesty works, and it's much easier to deal with in the long run.

NEW CLASSIFICATIONS REGS: LIFERS ON LEVEL I?

Count on CDCR to create chaos where there is already confusion. In the midst of thousands waiting with breathless anticipation for new regulations outlines criteria for family visits and the anticipation regarding how Prop. 57 may impact lifers, with little fanfare and even less explanation CDCR 'enacted' on an 'emergency' (it's always an emergency when CDCR wants something done) basis new changes to Title 15 on classification and custody. And while there are many positive aspects to these new regs, like most things CDCR they have generated more questions than answers.

Signed by Director of Adult Institutions Ralph Diaz and filed with the Office of Administrative Law on January 23, and effective on Feb. 20, 2017, the changes reference or impact more than a dozen sections of Title 15 dealing with inmate classification and discipline. Here are some take ways: the new regs will allow more inmates access to lower security level prisons and housing, making more programs available to them; expand endorsement authority to more staff to and eliminates the two-level close custody classification.

In summary, the most important impacts of the newly revealed regs are these;

- Allow LWOP inmates to be housed in Level II facilities which have electrified fences
- Allow certain categories of lifers, those that meet the 'exceptional criteria' (detailed below) of the regs to be housed in some Level I facilities
- Eliminate Close A and Close B classifications, replacing them with a single Close Custody designation, maxing at 5 years, absent aberrant behavior.
- Modify the classification and disciplinary process to ensure prisoners convicted of substance use RVRs are housed in facilities where they can obtain treatment
- Modify classification to allow placement in Level I facilities of those inmates who have a history of violence but have refrained from violent behavior for at least 7 years and overall are determined to no longer present a violent threat to others
- Modify the calculation of placement scores for disabled inmates, to ensure they are housed in facilities where they can receive appropriate treatment
- Expand endorsement authority for transfers to additional staff classifications and expand inmate access to rehabilitative programs.
- New calculation method which, through application of good behavior points, appears to make it possible for some lifers to reach classification scores below 19.

Of great interest to lifers will be the criteria for being granted placement in Level I facilities. Those criteria include:

- A preliminary score of 18 or less
- Those given a 3-year denial at their last BPH hearing
- A low or moderate CRA rating at their last interview
- Do not have a VIO (violent inmate offense) designation
- Are not considered a Public Interest (high notoriety) case
- Do not have an "R" suffix attached to their case
- Have no history of escape/attempts
- Do not have a 'mandatory minimum score factor' that would preclude Level I, "Where determined eligible for placement, the mandatory minimum score factor for "other life term" shall be removed/not imposed." In other words, simply being a lifer no longer means a max minimum score of 19, thus precluding housing in Level I.