

ANOTHER CRAZY BALLOT YEAR AHEAD

The last several years have seen the passage of a flurry of new laws impacting the parole process and inmates in general. By in large, these new laws have provided varying degrees of relief for many long-serving inmates, who still, however, must meet the suitability requirements of the BPH.

And while not all proposed laws along these lines have been successfully passed, enough have been gone on the books to not only impact long-term inmates, but also capture the attention of the 'lock 'em up' crowd. And in line with the old saying that no good deed goes unpunished, there was bound to be some push-back from the opposition. That pushback has begun, as have efforts to continue to push reforms farther.

Several proposed ballot measures are now in the signature-gathering phase, hoping to gain a spot on the ballot and voters' favor. Herewith is a short summary of the presently known proposals;

The sweetly named the "**Reducing Crime and Keeping California Safe Act of 2018**," the proposed ballot initiative is put forth by a coalition of police and DAs masquerading as the "California Public Safety Partnership." Sounds nice, what could go wrong?

Well, just about everything accomplished in Props. 47 and 57. This proposal would do the following:

- add 15 crimes to the list of violent crimes, which would preclude early release
- allow DNA collection for certain crimes, including drug offenses, that were reduced to misdemeanors under Proposition 47 and for which mandatory DNA collection is now not enforceable

- make serial theft, one or more prior convictions for shoplifting or a felony
- adds a penal code section defining serial theft and listing 15 specific crimes
- mandates a parole revocation hearing for anyone who violates the terms of their parole three times.

In the words of one CDCR official, passage of this proposition would be 'disastrous' for both the recent reforms under Props. 47, 57 and AB 109, but also for the prison system, which could, given the number of new felony convictions possible under the language, see the population again swell to pre-cap levels. Although not on the ballot yet, the well-funded supporters are now gathering signatures.

Also proposed for the November ballot is the "**Voter Restoration and Democracy Act of 2018**," sponsored by Initiate Justice, and perhaps the simplest of the proposals. If passed, this proposition would amend the state Constitution to allow those individuals currently in prison or on parole for a felony conviction to register and vote in elections.

California is among several states that currently restricts voting privileges of those in prisons or on parole. Only 2 states, Maine and Vermont, allow incarcerated persons to vote. Again, signatures are now being gathered to meet ballot-placement requirements.

The "**Elderly Inmate Parole Initiative**," would provide parole consideration for inmates who are 80 years and older, after serving 10 years of their sentence, either a life sentence or a determinate sentence. It excludes LWOP and condemned inmates, or those whose release is "prohibited by any initiative statute."

Also gathering signatures is the latest version of the Second Chance Initiative "**Second Chance for Youth Second Strikers**." This measure would require parole hearings for "any prisoner who was under 23 years of age at the time of his or her controlling offense." The guidelines would be hearings after 15 years for determinately sentenced prisoners; those with a to life term of less than 25 years would see hearings after 20 years and lifers sentenced to more than 25 years, after the 25th year. The current language excludes condemned and LWOP inmates, and those who, subsequent to the age of 23, committed a crime with malice aforethought or for which they received a life sentence.

And finally, "**The People's Fair Sentencing and Public Safety Act of 2018**," sponsored by We the People, perhaps the most complex and potentially the most controversial, would, in a nutshell, change penal code to move "nonviolent" property offenders from the same category as 'dangerous criminals, will no longer be classified in the same category as dangerous criminals, and require resentencing as second strikers for all third strikers whose current conviction is not a violent felony within the meaning of the amended provisions of Penal Code 667.5(c)." And it hopes to apply these changes retroactively.

None of these ballot proposals has, as yet, reached the required number of signatures to assure them a place on the ballot, but as efforts continue, we'll keep our readers apprised.



BROWN COMMUTES 19, INCLUDING 9 LWOP

A few days before Christmas, Governor Jerry Brown, taking a page from Santa Claus' book, delivered some pretty big Christmas presents to many former and current prisoners, handing out a whopping 132 pardons to former inmates, and reducing the sentence of 19 current prisoners. And in a truly life-changing move, nine of the commutations offered LWOP inmates the hope of parole, by changing their sentences to life with the possibility of parole. These eve of Christmas Eve announcements nearly doubled Brown's total commutation number for the year, to total of 35 commutations in 2017, 15 of those LWOP inmates.

Interestingly, one of the pardons issued by Brown was to Richard Pfeiffer, released in 1994 after serving a bit less than 2 years for robbery and burglary. Why, in the 132 pardons issued, is this notable? Because Pfeiffer went on to become not only an attorney, but an attorney who represents lifers at parole hearings.

Brown noted that since his release Pfeiffer has "lived an honest and upright life, exhibited good moral character and conducted himself as a law-abiding citizen." The Governor also noted Pfeiffer has also provided pro bono assistance to several criminal justice organizations.

For those still inside, the news was equally positive. Several of the 9 LWOP inmates touched by the Governor also fell under the umbrella of YOPH and 7 were women prisoners. The commutations also included one third-striker.

Most LWOP sentences were commuted to sentences of 25 to life with the possibility of parole, meaning many will appear before the board within the next handful of years. In noting his reasons for commuting the sentences of both LWOP and other inmates, the Governor noted all had been exemplary prisoners, most never receiving any RVRs, being heavily involved in, and in some cases actually creating, self-help programs.

Many were able to submit letters from prisons staff, including wardens, in their commutation petitions. In detailing his reasons for providing potential relief for many of the female inmates, Brown noted they

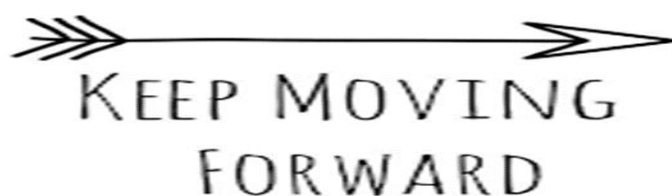
had been victims of intimate partner battery, situations that likely contributed to their actions in committing their crimes. Intimate Partner Battery has long been recognized as a mitigating factor in criminal actions, though most of the women affected by the Governor's pardons were sentenced prior to this syndrome being recognized by the legal community.

FRITZ OUT, DOBBS IN

News broke early in the month that Commissioner Cynthia Fritz, a commissioner since 2011, has resigned from the board, to take a position as an Administrative Law Judge with another state division. Prior to appointment as a commissioner Fritz served as a Deputy Commissioner for two years, with previous stints with the state Departments of Justice and Transportation.

Fritz was somewhat unpredictable; in 2015 her overall grant percentage was the second highest of commissioners, yet in August 2016, she doled out the second highest number of denials. Of late, her grant rate has hovered around 20%.

In what appears to be an almost simultaneous action, Governor Brown, on Dec. 8, appointed Diane Dobbs, late a Deputy Commissioner, to fill the seat so-recently vacated by Fritz. A DC hired just this year, Dobbs was an attorney at the California Department of Consumer Affairs from 2007 to 2017 and in private practice prior to that position at the Law Offices of Dianne R. Dobbs from 2006 to 2007.



WALKING BACKWARD THROUGH OUR MIND

At the end of every year we try to stop, take a breath and look back at the events of the preceding months. Although the last few years have been pretty full of changes in CDCR and prison issues, 2017 was quite a notable year for legislation affecting lifers.

YOPH was expanded to those under 26 at the time of their crime, LWOP for those who committed their life crime before the age of 18 was virtually abolished with the implementation of automatic hearings after 25 years of incarceration, elderly parole was codified and a tiered registration system for 290 convictions put in place. And while some of these new laws need additional modifications, at least the process has begun.

2017 also saw the Board of Parole Hearings expanded to 15 commissioners, a new process for considering confidential information implemented (the jury's still out on this one) and information on the parole process and individual inmates' release dates made available to the public. And more importantly, 2017 saw Governor Brown issue (as of publication date) 35 commutations of sentence, including 15 to LWOP inmates, making them eligible for parole after 25 years.

Helping us put all of this into perspective is a little excursion down memory lane, spurred by the discovery in our files of an old Lifer-Line newsletter, from September 2010. Vol. 1 Issue 6 of Lifer-Line reflected information gleaned from responses to our first-ever call for information from lifers. It must be noted, in 2010, under a former BPH administration, information on virtually any aspect of the parole process was not easily available to the public—in fact, under former BPH director Martin Hoshino (late of the state Judicial Council) virtually everything was done behind not only closed, but barricaded doors. And we started knocking.

Looking back at some of the goings-on at parole hearings sent to us from inmates who had been in the crosshairs at parole hearings (this long before LSA or other non-attorney observers were allowed to attend hearings), we quote the following few snippets from that aged publication:

“Nearly 60% of the reasons for denial in the survey responses listed the “heinous nature” or cruel circumstances of the crime as the reason for denial of parole, coupled 42% of the time with a reference to lack of insight. In finding lack of insight the commissioners rely heavily on the psychological evaluations made by the BPH's Forensic Assessment Division (FAD), a questionable and secretive group of psychologists working at the direction of and accountable only to the BPH. Indeed, in nearly 20% of the denials on which we received information the psych report itself was cited as a reason for denial.”

“Comments made by the commissioners to prisoners ranged from the laughable to the bizarre to the truly outrageous. One inmate was chastised for his “repeated association with criminals while in prison”; another prisoner “possesses a dark side that will keep him from attaining” parole; family support from out of state “might as well be from the dark side of the moon,” to the prisoner “just haven't [sic] done enough time.”

“In October of 2009 [one inmate] appeared before the board with a package of rehabilitation that included 309 self-help chronos, 8 vocational trades, 19 vocational skills and 885 laudatory chronos over the course of his [over 40 years] incarceration. The decision? Denied three years, recommendations to continue to remain discipline free, continue in self-help programs and continue to gather supportive chronos.”

“Other objectionable instances included prisoners being forced to show and explain their tattoos, with a deputy commissioner noting in one instance he “always had a problem with prisoners and their tattoos.” And commissioners seem to be at odds as to how prisoners are to become suitable for parole, one telling a prisoner “you can't program your way out,” while another told a different prisoner “you have to earn your release date.”

Whew. Those were the days. We hasten to add, not only has the administration at the BPH changed, but only 2 commissioners from that era remain on the current board, and those two, thanks in part to training given to commissioners, better direction and leadership and, we can surmise,

maturation and growth on their part as well, have changed considerably. It's doubtful those remarks and attitudes would be on display today.

So, while we still have a long road ahead, it's helpful to turn around and look back, to see the bumps and potholes we've weathered, to acknowledge this road is a bit smoother and wider, and it pays to keep on truckin'.

NEW OMBUDSMEN, NEW ASSIGNMENTS

The Ombudsman's Office is the first line of assistance to both inmates and families, from visiting problems, to filing of 602s and tracking those sometimes-elusive documents. We have long advocated any inmate filing a 602 send a copy of that appeal to the appropriate Ombudsman for his/her institution. Although not a sure-fire way to solve your issue, it the various 'ombuddies' should be a resource known and used by inmates and family.

While email and phone numbers for each ombudsman are available to friends and family on the CDCR website, inmates are restricted to regular mail. Below are the current Ombudsmen, and the institutions they review. All can be reached at CDCR Headquarters:

California Department of Corrections and Rehabilitation
Office of the Ombudsman
1515 S Street
Sacramento, CA 95811

Sara Malone, Chief Ombudsman: *Central California Women's Facility (CCWF), California Institution for Women (CIW), Folsom Women's Facility (FWF).*

Sara L. Smith; *California Correctional Institution (CCI), California Institution for Men (CIM), San Quentin State Prison (SQ), Folsom State Prison (FSP).*

Scott Jacobs; *Pelican Bay State Prison (PBSP), High Desert State Prison (HDSP), California Correctional Center (CCC), Ironwood State Prison (ISP), Chuckawalla Valley State Prison (CVSP), Sierra Conservation Center (SCC).*

Xina Bolden; *California State Prison, Corcoran (COR), California Substance Abuse Treatment Facility and State Prison at Corcoran (SATF), Centinela State Prison (CEN), Calipatria State Prison (CAL), Deuel Vocational Facility (DVI).*

Tami Falconer; *Salinas Valley State Prison (SVSP), Correctional Training Facility (CTF), California State Prison, Solano (SOL), California State Prison, Los Angeles County (LAC), California Men's Colony (CMC).*

Larry Cupler; *Kern Valley State Prison (KVSP), North Kern State Prison (NKSP), Avenal State Prison (ASP), Pleasant Valley State Prison (PVSP), Wasco State Prison (WSP), Valley State Prison (VSP).*

Eric Joe; *California Health Care Facility (CHCF), California State Prison, Sacramento (SAC), Richard J. Donovan Correctional Facility (RJD), Mule Creek State Prison (MCSP), California Medical Facility (CMF).*