



## **SIGNIFICANT EVENTS IN 2015—FROM THE BPH PERSPECTIVE**

For the third year the Board of Parole Hearings has released a report tallying hearings, recapping new policies and laws and generally reporting a summary of the past year. The 2015 Report of Significant Events document, unveiled recently during training for parole commissioners, offers a dozen or so pages of statistics, policy and procedure changes as well as legal developments.

By far the most interesting bits from the report, at least to lifers, are the numbers detailing parole hearings, grants and denials. And those numbers are pretty significant. In 2015 the Board officially reported making 906 parole suitability grants, 125 of which were to YOPH candidates and another 166 to those who qualified for elderly parole. Last year the net number of grants was 902.

Those grants came out of 5,300 scheduled hearings, a reported 13% increase over the number of hearings scheduled in 2014, a rise attributable to the infusion of YOPH and elderly parole hearings into the mix. The board held 959 YOPH hearings, a 113% increase over the year before, with elderly parole hearings up 92% over the previous year, to 1,012 in 2015.

But not all scheduled hearings are held. Of the over 5,000 scheduled over 2,300 were not held due to stipulations, waivers, postponements, cancellations or continuances. So what do all these numbers look like in grant rate percentages, that all important number everyone always asks about? Depends on how you calculate the figures—who says numbers don't lie?

The BPH, using what we term the gross method, no reflection on the attractiveness of the results, calculates the percentage using the number of grants given in relation to the number of hearings scheduled. That calculation produces a 'grant rate' of about 17%; pretty low.

However, using the net numbers method, which calculates the grant percentage based on the number of grants handed out in relation to the number of hearings actually held, the grant rate is around 30%-quite a difference. But the different numbers are useful in different circumstances and to different audiences.

For our purposes, we think the 30% number is a more accurate reflection of the direction of parole hearings and a more realistic number. After all, if you don't have a hearing, through waiver, stipulation, or whatever, there is certainly no way a grant will be made.

Even using those base numbers in the calculation of grant rate the rate has fallen a bit from last year. The primary cause for the slight decrease in all likelihood was the insertion of DSL inmates into the parole cycle under SB 260/261 and elderly parole. Many of these prisoners, whose flat term sentences often exceeded their natural life-span, never expected to attend a parole hearing and had not been preparing for one. And as BPH Executive Director Jennifer Shaffer has noted, it's not a good idea to surprise someone with a parole hearing.

Those DSL inmates were simply not prepared, through lack of programming, excessive RVRs or other factors, for hearings and as a result the grant rate for that cohort hovered around a dismal 5%. And that low score brought down the overall grant rate average.

Other numbers of note and interest, of the 906 grants given; postponements accounted for 21% of scheduled hearings, up from 18% in 2014. All of these results were likely impacted by unprepared DSL inmates.

Petitions to Advance; 724 filed, down 25% from the previous year, likely the result of the 3 year blackout period. Parole review for Non-Violent Second Strikers; CDCR classification referred 6,735 individuals to the BPH for NVSS review and possible release. That was granted in 2,163 cases and denied in 1,991 cases, the remainder being still under review or pending the prisoners reaching their minimum review date.

Other figures released in the Significant Events report, such as the number of medical parole hearings held (57), the number of 1170 (e)/compassionate release hearings held (21) and parole reconsideration hearings (38), among others, brought up still more questions on the results of those particular confabs. So we've posed several questions to BPH, asking for information that may allow us to gain an understanding of how significant those events were. And when we get the answers, do the calculations and analysis, we'll let you know.

## **GOVERNOR REVERSALS—FIRST HINTS**

The annual report on parole grants reversed by Gov. Brown was released in late February and so far there are no huge surprises. In 2015, however, the Governor reversed only 95 parole grants, down significantly from the 133 the previous year.

With 906 grants given, the 95 reversals work out to just over a 10% reversal rate, a personal best not only for this Governor, but many before him. It's a downward trend we want to see continue.

We are currently plodding our way through those dismal missives, reading the good, the bad and the ugly, and the Governor makes a habit of pointing out the latter. It's a mind-numbing task, but the resulting report, which will highlight the common denominators among those reversed, is always useful and informative

Although not yet complete, there are, at this point, few surprises from previous years. The characteristics of the victims seem to be one of Brown's biggest triggers, with those committing crimes against women, children or other vulnerable victims most likely to be told no. And the Governor continues to ask the unanswerable question—why did you do what you did? And those who weren't satisfied with one method of mayhem, inflicting more than one sort of violence (shooting, stabbing, et al) on a victim were also in Brown's cross hairs—no pun intended.

Next issue of Lifer-Line will feature the complete report, with the Governor's triggers noted and identified. And as tedious as this task is, the information and knowledge gained are worth the effort.



## **REACHING OUT TO INMATE VETS**

LSA Board Member Vic Abrunzo, himself a disabled Viet Nam-era vet (as he likes to qualify, “not combat, not in-country, not trying to fool anybody; I was very lucky to have been a chair-borne paragraph trooper”), will be taking on a new role, collecting, reporting and facilitating, where possible, information of assistance to prisoners who are also military veterans. In addition to being a vet and member of LSA's Board of Directors, Abrunzo has been a member the Inmate Family Council at several institutions, has been on the board of a re-entry facility and is a current member of the State Inmate Family Council.

Within CDCR systems and polices to provide support and assistance to veterans are often irregular, uneven, and leave much to be desired. Vets seeking help in verifying qualification for benefits, getting those benefits, assistance in acquiring copies of DD214, or finding ILTAGS addressing vet's needs find little, if any, such help is available. And, we have often noted, the BPH Commissioners do not seem to have a deep understanding of the impact of PTSD on gaining "insight" into the causes of the life crime or as a factor impacting individual decision-making process, an understanding that is also not totally factored into the CRAs.

There have been some efforts to address the special needs of veterans; a VFW post was chartered at the Correctional Institute for Women in Corona and efforts to create another at CIM are reportedly underway. We've heard of an ILTAG for veterans at Stockton Health Care Facility and just this month, an offender newsletter out of Wisconsin identified prisoners doing their time as Veterans Service Officers inside Soledad.

And the BPH is working with the Cal Vet staff to try to assist in areas where their constituencies overlap--vets serving life terms. All of which suggests that vets, like lifers in general, need to start taking care of themselves, and one another. So in an effort to communicate, share successes, identify and address issues impacting veterans and to find support, both inside and out, LSA, via Abrunzo, will help get the discussion under way.

Let us know what's going on at your institution that impacts vets, good or bad. Got an ILTAG group for vets? Let us know how it started and what it does. Unaddressed PTSD issues? Let us know. Was your military service and possible associated issues a factor in your crime and/or your parole hearing? We'd like to hear about it.

Send your thoughts, ideas, issues to LSA, PO BOX 277, Rancho Cordova, Ca. 95741, marked Vet Stuff or ATTN: Vic and we'll see where this trail leads. Whatever else has happened in your life, you remain a veteran and for that service we remain indebted to you.

## **THE AMENDS PROJECT ROLLS ON**

Just over a month since The Amends Project began presenting workshops to assist those wanting to further their own rehabilitation and healing, as well as potentially that of their victims, we've already reached nearly 200 inmates in 4 separate institutions, offering guidelines, suggestions and assistance in writing apology and amends letters to their victims and victims' families. And the requests keep coming; inmates in 20 prisons have written for information and to request the workshop be presented. Currently the enrollment rate is well over 50% of those who attend the workshop—that's right, you can attend the presentation but that doesn't mean you have to enroll or write that difficult letter. That decision is entirely up to you, we're just the facilitators here.

And the letters are arriving also, some in fact, from those who have heard about The Amends Project but haven't yet had the opportunity to participate in the workshop. As expected, many of the early efforts, especially among those who haven't yet been through the program are not quite what they should be. And so our specially trained volunteer readers are providing direction and suggestions, helping those who want to make this healing effort find the right path, the right language to express their remorse and life-change.

For those who haven't yet been through the in-person workshop, please hold those letters. It is important for both you and LSA that we maximize our time and effort on this project, and frankly, the letters coming in from those who haven't experienced the workshop are usually well below the standard we have set, taking more time to critique and respond to than those coming to us after the writer as participated in the workshop. And because we are maximizing our resources, we can't provide this in-person service to individuals—groups are the best venue for this program.

If you've already contacted us about bringing Amends to your location, and have provided us with contact information for group sponsors or facilitators, we're working on it. Our best strategy is to schedule appearances at prisons in close proximity to each other on successive days, making our travels from our Sacramento base as efficient as possible.

As with all things involving CDCR, it's a process, and not always a smooth one, but one we can work through. The Amends Project has found its legs and will be traveling farther afield in coming weeks. Get your writing materials ready, and be willing to be open, honest and genuine.

For more information on The Amends Project, write us at LSA, PO BOX 277, Rancho Cordova, CA. 95741, mark your envelope "Amends Project." If you belong to an ILTAG that would like to participate, be sure to send us the contact information for your sponsor or facilitator.



## **SB 230 MEANS NO MORE MATRIX, MAY SETTLE BUTLER**

Although the BPH agreed to a settlement In RE: Butler over two years ago the finalization of that settlement is still pending in the First Appellate District. Under terms of the agreement, which went into effect April 1, 2014, the Board began a policy of setting base terms for those denied parole at the initial parole hearing or, if that event had already passed, at the next parole hearing. Previous to the agreement the board did not set an inmate's term until and unless he or she were found suitable for parole.

And while that settlement is still pending final approval, a new development renders the entire question of base terms virtually moot. Under provisions of SB 230, effective January 1, 2016, the board is no longer using the matrix, in any version, in calculating base or adjusted base terms.

SB 230 began a new policy finds that by virtue of having been incarcerated long enough to be entitled to an initial parole hearing an inmate is deemed to have served his base term. For those who qualify for YOPH or elderly parole, the fact that the individual is eligible for those specialized hearings means he/she has reached the base term required.

So, several things are disappearing here. The matrix is gone, as are future parole dates. Now, once an inmate is deemed suitable for parole, his release will be effectuated after all applicable reviews, legal, administrative and gubernatorial, are complete. Whatever date brings an individual prisoner to parole consideration first, whether under YPED, YOPH, elderly or MEPD, is deemed to be the arbitrator of the base term length.

And once found suitable and successfully past the review periods, release will be ordered, notwithstanding any other sentences imposed for lesser crimes resulting from the same incident as the life crime. Time on consecutive sentences or enhancements will not be required. The exception to this is a Thompson term, from crime convicted and sentenced after the life crime, while the individual was in CDCR custody. Those sentences must still be served after release from the life term (or long term determinate sentence).

All that awaits now in the Butler settlement is for the court to agree that the current practice, under SB 230, complies with the intent of the Butler agreement, to inform inmates of their base term length. However, for those who have served years, even large numbers of years past their MEPD, YPED, YOPH or elderly parole eligibility date, that length of time alone will not guarantee them a finding of suitability.

The standard for granting of parole remains a determination of suitability, using the 'no longer an unreasonable risk of danger' standard. But inmates denied parole will no longer be provided with a term calculation under the matrix.



## **CHANGE IN CONFIDENTIAL INFORMATION POLICY COMING?**

The recent Stakeholders Meeting/Conference Call, attended in person by LSA and a few DAs and via conference call by a variety of attorneys from both sides and other interested parties, produced at least one upcoming development that will be of considerable interest to inmates and their attorneys; a proposed new procedure involving confidential information. A subject of considerable angst, anger and aggravation to all parties, the use of confidential information by parole panels in making suitability decisions has long appeared ripe for legal action, but such action promises to be long, expensive and convoluted.

Attorneys, advocates and inmates maintain prisoners' rights to confront accusers and know the charges against them are violated when the parole panel relies on confidential information but does not divulge either the alleged information or where it came from. The question has always been, how can an inmate address charges in the confidential file, to the satisfaction of the parole panel, if neither they, nor their attorney, know what those allegations are?

Under guidelines currently being proposed and built by the BPH, in part as a response to the outcry on this issue, personnel at CDCR headquarters, in conjunction with BPH personnel, would review the confidential file and produce what would essentially be similar to a form 1030 for distribution to the parole panel, DA, inmate attorney AND the inmate. The proposed 1030-like form would summarize information in the confidential file that the reviewers feel would be most relevant to a parole decision.

The initial indications are that such a summary would, most likely, concentrate on confidential information that resulted in a RVR being issued to the inmate. The exact nature of the information as well as the source of the allegations would remain confidential, but the new summary would (at least this is the proposal and hope), provide inmate and counsel with a minimum idea of what the panel would probably consider. The entire confidential file would still be available for review and use by the parole panel. And if used, a confidential tape would continue to be made, accessible only by a judge as part of a habeas challenge.

Whether this new policy, currently a proposal that will see implementation only if funds for the to-be-formed cooperative review unit are not cut from the proposed state budget, is still in the planning stages. And while imperfect and we foresee continued acrimony and disagreement, if not outright unfairness in the use of confidential information, at least this is an acknowledgement by the BPH that perhaps something needs to change.

As more information on the proposed change become available we will stay informed, so that we may keep our readers informed.