



## **THE GOVERNOR'S TRIGGERS, 2015 EDITION**

Every year for the past...several, LSA has undertaken the rather distasteful and dismal task of reading through the letters from Gov. Brown announcing his reversal of hard-won parole dates for lifers. Granted, Brown has historically reversed far fewer parole grants than any of his predecessors, a trend even more in evidence in this batch, but each missive means the dashing of hope for an individual, many of whom have worked years and served decades. It's not a fun job.

However, there is a purpose in this sadistic undertaking. We're able to glean from this effort those factors of an individual's crime and presentation to the parole board that don't meet the Governor's standards, often for reasons known only to Brown. And we use that information, first to alert our lifer constituents to these issues, but also to query the Governor's office as to the rationalization, reason or relevancy of the specifics outlined by the Governor for the reversals. And while he does believe in rehabilitation and redemption, Governor Browns' standards are his own. And also please keep in mind, the courts have upheld his, in fact any Governor's, ability to make those decisions, separate and apart from the Parole Board.

Although very similar to previous years' reversal triggers there are a few new factors in parole grants reversed by Gov. Brown in 2015. Perhaps the most important new development is that the Governor's reversal rate decreased in 2015; for the past 4 years Brown had built a record of reversing about 14% of the parole grants made by the BPH. But in 2015 he reversed 95 of the 904 grants, for about a 10% reversal rate.

What offends Brown the most? As in past years the characteristics of the victims seem to be the top issue, especially if that victim is a woman. Of the 95 reversals, 47 were for crimes against women. But other vulnerable, or special cohorts, also bring extra scrutiny; children, the elderly, and special groups such as fire fighters or police, also are noted. And when that female victim has a special

relationship with the inmate, usually wife or girlfriend, the Governor expresses special disdain. In sum, of the 95 reversals, the chrematistics of the victims were mentioned by Brown in 82 of those reversals. Clearly, a trigger of the first order.

In about a third of the reversals (30 cases), the Governor accuses the lifer of minimizing his/her participation or culpability in the crime; a similar number of times (36), Brown castigates the inmate for not having a sufficient or acceptable explanation for the crime. We've asked before why the Governor expects anyone to explain the unexplainable, and most especially now, with YOPH.

The factors of youth, those 'hallmarks' of being unable to make good decisions while immature, even if one wanted to, provide significant information on why many youngsters get involved in crime, but in at least 15 cases Brown reversed a YOPH grant, often noting he did not find the explanation for the crime acceptable. Perhaps we should send him Dr. Hall's report on the adolescent brain.

**NOT AN EXIT**

In just over a fourth of the reversals (27) Brown mentions the CRA of the inmate, often citing what he terms 'elevated' risk assessment, and/or complaining that the report was outdated. However, in nearly all cases cited the risk assessments given were moderate or low/moderate. Perhaps we, again, need to visit the Governor's office with a reminder that 1) moderate means average, not elevated; and 2) Dr. Clif Kusaj, head FADer, has said repeatedly, and in open session, that a moderate risk assessment for a lifer is the same as a low risk level for any other prisoner cohort.

Also interesting, if a bit confounding, is Brown's characterization of CRAs as old or outdated, when often those reports were well less than 3 years old, the current 'shelf-life' length the FAD considers CRAs valid. The Governor also directs the BPH, via the reversal letter, to conduct a new CRA before the next parole hearing. When asked, BPH Executive Director Jennifer Shaffer confirmed that when it is so noted by the Governor, the BPH will, indeed, perform a new CRA evaluation, regardless of how old the previous, and to the Governor, unacceptable, CRA is.

Brown also feels no compunction about substituting his own opinion for that of FAD clinicians—specifically noting in at least three cases that "I disagree," with the risk assessment. And we thought Brown was only an attorney by training and a politician by nature; turns out he's also a closet clinician.

Other points of interest, of the 95 reversals 2 were women and 13 had had suffered a previous reversal by Brown. More than two dozen, 26, were over the age of 60 (the oldest was 75) and one qualified for both elderly parole and youth parole consideration.

In all, while we can say the reversal trend is, for this year, abating somewhat, the reasons and reasoning of the Governor are still a mystery. And in spite of the Governor's actions, 7 of those reversed last year are now, in fact, out of the CDCR system, including one former inmate, now working as a paralegal, who was reversed 3 times by Brown. Sometimes the Governor does not, in the end, have the final word.

Herewith are the raw numbers and factors of the 95 reversals:

Female victim	47	Second degree convictions	52
Child/youth	18	Victim/family opposition	19
Other special	17	Street/prison gang involvement	16
Minimizing	30	No good explanation	36
CRA concerns	27	Previous criminality	20
Insufficient insight	6	Excessive RVR (115)	19



## NO. NO FAMILY VISITS. YET

If only we could get a donation for every time we answer this question/rumor/wistful thinking.

NO. There is not at this time any 1) pending legislation; 2) official proposal; or 3) imminent restoration of family visiting for lifers. So whatever rumors you've heard (or repeated), vague reports or even alleged information from 'sources', such as counselors, family visits for lifers is not happening. Yet. This year. So please, stop waiting with bated breath for this, expecting 'conjugal' visits or similar privileges anytime soon.

One of the things we suspect is fueling this recent up-tick in unfounded reports of lifers in some prisons already getting family visits (usually reported that such visits have been restored for female inmates; not true) is a current bill by Sen Holly Mitchell, SB 1157, currently the only piece of legislation mentioning prison visiting; which is perhaps why it's getting some attention.

However, Sen. Mitchell's bill address two specific areas that preclude lifers: it is aimed at local (county and city) lock ups and affects only juveniles. What SB 1157 addresses is the increasing use of video visiting in jails and county camps in place of actual contact visiting. The bill seeks to prevent those facilities from totally replacing in-person visiting with the video version and would require a specific number of hours of contact visiting.

However, once again, this bill addresses only juvenile facilities and only local institutions, it does not address adult prisoners and/or state prisons in any way. As we have repeatedly reported, we do believe, indeed are working for, the restoration of family visits for lifers...but not this year (an election year).

We're not the only group advocating for this change, and we are not meeting the official resistance we have been faced with in the past. So we are encouraged.

And we are cautious. Again, petitions may be counter-productive, marches on the capitol can create backlash and in general, we'd like to keep things quietly moving along. And you can be sure, if it looks like family visiting in on the doorstep, we'll be shouting from the rooftops. Or at least the pages of the newsletter.

## AND WHILE WE'RE ON THE SUBJECT...

A study released last year and based on data from the Prison Policy Initiative and reported by Vox Policy and Politics, notes regarding family visits for prisoners "that inmates who get more visitors are less likely to reoffend once they get out." The study quotes that the Minnesota Department of Corrections reported that "a single visit correlated with a 25 percent drop in technical violations and a 13 percent drop in new crimes once the inmate got out of prison."

More specifically to California, the report notes the state now "deploys strip and dog searches against some visitors." Those visiting-discouraging actions are part of recently departed (only from the state) Sec. Beard's pet drug interdiction practices; practices that may or may not continue to move forward now that their champion is no longer in the state.

And apparently California isn't the only state where the whims of officers often dictate visiting policy—the study also notes Washington State's "ban on "excessive emotion," is entirely subjective. That has a familiar ring.

The study also taps into federal prison data which reveals that prison visits are the exception rather than the norm: only an average of about 31 percent of inmates in state prisons nationwide reported a personal visit in the previous month, and 70 percent had a phone call in the previous week. However, research shows that while making visiting more accessible would probably not help those inmates who have no social network on the outside, increasing visits for prisoners who do get visitors, though infrequently, could help cut down on the recidivism rate.

And although there will always be those who complain about any humanitarian moves being soft on crime, if the point of the criminal justice system is to promote public safety, then making visiting of inmates more difficult could actually be detrimental to that public safety. Food for thought, as we meet with newly appointed CDCR officials.



## STAMPS NEEDED

Contributions of postage stamps are greatly appreciated and currently much needed. While we don't purchase stamps, we are always in need of them. Any donations appreciated, especially if we're corresponding with you on The Amends Project. Thanks in advance!