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FYI ↓

For the curious minded watching the next couple years as I acclimate to the new idea that there is a possibility toward parole.

### FIRST TAKE ON THE NEW GOVERNOR

In mid-June LSA met with representatives of Governor Newsom's legal staff to discuss several areas of interest and impact to lifers, including the numerous reversals and referrals to en banc in the early months of his administration. The Governor's staff, recruited from many venues and areas of the nation, are settling into both their respective offices and the peculiarities of California law, including laws pertaining to parole and corrections. The discussions were extensive and cordial. All indications are that the initial spate of adverse actions was something of an anomaly and Newsom's intent is to be progressive in all areas, including corrections and prisons.

Three major take-aways from the 90+minute meeting:

1. If you have applied for commutation of sentence in the last 2 years and have not been notified of the outcome of that petition, you MUST submit the 1-page re-application form to keep that request open
2. Expect to see the level and number of reversals and referrals slow down as everyone catches their collective breath and finds their pace
3. This administration is interested in communication and information and plans were laid for future meetings between the Governor's staff and LSA.

Staff members told us Gov. Newsom is open to the commutation process and they continue to review and process applications. Despite a vigorous push in the end months of Gov. Brown's administration many commutation petitions remain unreconciled. For those who may have filed a commutation petition in the last 2-3 years and have not been notified of the outcome or contacted by investigators, know that the petition is considered closed, but not denied.

To re-open consideration of the request, prisoners must file a 1-page reapplication form, available on Governor Newsom's website. When we brought it to the attention of staff that these forms are not readily available to prisoners, either via the law library in most prisons or through counselors (in fact many counselors contend they don't know about the process or it isn't their job to assist), they found

this as big an issue as we do and committed to find a way to solve that issue, and we will follow up on that.

In the meantime, those prisoners wishing to keep their inactive commutation petition alive and unable to find the form elsewhere can send a SASE to LSA at our mailing address, add "commutation" on the front of the envelope and we'll provide the form directly to you. We also discussed with the staff members the total lack of information on the status of a request once submitted.

The attorneys agreed this is a problem and thought a find way could be found to create a method for friends, family and even inmates to check on where the request for commutation is in the process. This won't happen overnight, so be patient, and know that as soon as this progress report is created and in place we'll let you know. And while they couldn't speculate on the speed, numbers or when Gov. Newsom might issue commutations (Brown, for most of his term, used holidays for such occasions), all agreed commutation consideration and action would certainly continue under this governor.

The Governor's staff members, some of whom had also served under former Gov. Brown, were also reassuring regarding what had, at the beginning of Newsom's term, seemed an alarming rush of grant reversals and referrals of numerous grants to the BPH for en banc consideration. LSA had previously heard, from many CDCR-affiliated sources, that this was a temporary situation and not a portend of things to come. That position was echoed and affirmed at our June meeting, with all in the administration firm in their belief that Gov. Newsom would not harken back to the days of 80% reversals of parole grants but would individually consider each grant. And, indeed, the number of adverse actions seems to have slowed, to return roughly to the pace we were accustomed to previously.

As to what 'triggers' this Governor, it's too early yet to reach those conclusions, but we're monitoring the reversals and en bancs to glean that information. Toward that end, those who have been reversed or sent to en banc by Newsom can assist our efforts by sending us a copy of their reversal/referral letters.

In a related issue, one it appears no one in the executive branch of the state was aware of, we brought up, with examples, the problem of timely notification of lifers whose grants are being either reversed or taken up at en banc. The fact that lifers who's grant has been adversely acted upon are not aware of that until (in the case of reversals) after their tentative release date has come and gone or (in the case of en bancs) the hearing date has passed. We were able, in fact, to point out one such instance on this month's BPH Executive Calendar, when a lifer was not notified of his en banc hearing until a Monday morning, with the hearing slated for Tuesday.

The Governor's staff found this as troubling as do we and further events in this area indicate action is being taken. We have discussed this issue previously and vociferously, but in all fairness, the onus for this lapse lies not with the BPH, but most probably with the labyrinth of CDCR and the, shall we say, nonchalance of some personnel therein. But we've found in the past that attention from Sacramento turned to any area of any process often results in change.

The members of the Governor's staff were generous with their time, attention and interest, informally discussing many other areas of corrections, rehabilitation and parole. LSA has always felt approaching areas of concern from a factual rather than emotional basis, and from a position of how we can work together to solve issues, not from a confrontational standpoint, is the most effective and fastest way to promote change. It was reassuring and encouraging to find members of Governor Newsom's team with the same approach.

We will continue our communication with the Governor's staff and made tentative plans to meet again in a few months to revisit some of the issues discussed in June as well as check in on any new

developments in the future. Yes, things and people have changed, but it appears the progress made over the last few years is in safe hands and that we are still on a positive path.



## BILL UPDATE

As this year's legislative winds down here's (probably) a final look at a half dozen of bills that would or could have been the most impactful to lifers and parole. Contained in this list are the bills noted by the BPH as ones they were watching, as potentially have an impact on parole hearings and process.

The 2019-20 legislative session was, to no surprise, primarily an exercise in maintaining the gains garnered over the last few years, as many of the bills introduced would have undermined or reversed parole considerations for special cohorts, such as YOPH. Bills that have not made it out of their house of origin (Assembly of an AB bill, Senate if an SB bill) will almost certainly not be acted on this year. Those that are in committee in the sister house still have a chance to pass committee and floor votes and be enacted.

Five of these six bills would have an adverse effect on parole possibilities for inmates, while one bill would provide a positive change. And while LSA is non-partisan, from a strictly factual perspective, it may be worth noting that 5 of these 6 bills were authored and introduced by Republicans in the State Senate and Assembly.

**SB 141**—(Bates, co-sponsors Chang and Jones, Assembly sponsor Lackey) This bill, apparently stalled for this session, would have required the BPH to consider a risk assessment report for any inmate up for parole consideration who had a previous conviction for a sex crime.

**SB 411**—(Jones, R, El Cajon) This bill, stalled in the Senate, would have exempted certain sex offenders from consideration under Elderly Parole.

**AB 580**—(Lackey, R, Palmdale) This bill, which appears to be stalled for the year, would require increased time for notification of victims' next of kin when a condemned prisoner applied for commutation of sentence. It would also have allowed victims' families to request a public hearing on the commutation request before the BPH and require the board to make a recommendation to the Governor on that request.

**AB 665**—(Gallagher, R, Chico; co-sponsor Nielsen, R, El Dorado Hills) This bill, which never even made it to a committee hearing in its house of origin, would have removed the ability of those sentenced to LWOP under the age of 18 to petition the courts for recall of sentence, replacing that with a requirement that the sentencing court resentence the individual to a life with parole sentence or determine the individual was "irreparably corrupt or incapable of rehabilitation." It would also have exempted from a board hearing anyone found to be "irreparably corrupt" etc.

**AB 965**—(Stone, D, Santa Cruz) This bill, which still has a chance to pass, is currently in Senate Appropriations Committee. It would apply credits earned by inmates to reduce the date of required period of incarceration before the prisoner's youth offender hearing.

**AB 1641**—(Kiley, R, Granite Bay) This bill, which never made it out of committee, and is thus dead for the year, would have made YOPH hearings inapplicable to anyone convicted of murder after the age of 18. Had it passed, it would have significantly impacted the YOPH laws, which now (and for the future) apply to an inmate convicted of most crimes (absent certain sex offenses) before the age of 26, not just 18.

In summary, of the 6 bills, the 5 that would have been adverse to inmates are all stalled and would require miracle resuscitation to be successful this year. The one bill that would provide some positive impact on inmates will has a chance for passage.



### INDIGENT OR INDOLENT?

If you are receiving Lifer-Line from an LSA volunteer, part of our 'indigent' mail tree, we're happy to help if you are truly 'indigent'—which in this case doesn't mean without funds (since Lifer-Line is a free publication), but without contacts outside of prison willing to mail it to you. But. If you're only indolent (lazy, opportunistic, lax), then we'd appreciate some self-monitoring.

Currently our good-hearted volunteers are mailing nearly 400 copies of Lifer-Line to prisoners who tell us they're indigent, with no one on the outside to send them this free publication. Given the pervasiveness of computers these days, that number is getting harder and harder to find credible, as a parole panel might say. So, fess up folks.

If you do have a relative or friend who can receive the newsletter by email to mail on to you, please have them contact us and let us know they're stepping up to help you (by name). We'll add them to the mail serve list and remove your name from the indigent list, hopefully making room for someone on the waiting list (yes, there's a waiting list for the volunteer services) who truly needs the help. No repercussions, no problems, just help us make room for others.

And while we're on the subject, if you are on our volunteer indigent list you can help yourself and us by sending a few stamps to help underwrite our efforts.

### NEW BPH CHIEF COUNSEL NAMED (BUT NO COMMISSIONERS)

Jessica Blonien, 47, of Sacramento, was recently appointed by Governor Newsom to the post of chief counsel at the Board of Parole Hearings. She served as supervising deputy attorney general at the California Department of Justice, Office of the Attorney General from 2008 until 2019 and as a deputy attorney general from 1998 to 2008. Blonien is registered without party preference.

She replaces Jennifer Neill, who Newsom appointed Chief Counsel at CDCR. Neill had served three years in the BPH, and prior to that was in the Attorney General's office.

And, as of the time we go to print, no new commissioners nor reappointments of sitting commissioners have been announced. Up for possible reappointment are Commissioners Anderson, LaBahn, Grounds, Cassidy and Ruff. These commissioners must be reappointed, or their seats filled by other candidates, by July 2019. Whether Gov. Newsom chooses to name his picks for these 5 seats at the same time and either in conjunction with or in addition to, individuals to fill the two new seats created under this year's budget, is anyone's guess.

## **NEW SDMF IS NOT THE 'CANADIAN MODEL'**

The BPH is now conducting parole hearings under a new format, known as Structured Decision-Making Framework (SDMF). And while this new pattern of consideration originated in Canada, BPH has not, as rumor would have it, gone to using the same considerations in making parole decision as those used by Canadian parole authorities.

As explained by BPH officials, SDMF is intended to provide a 'roadmap' to making consistent, well-reasoned decisions that comport with the law. While SDMF is based on the Canadian model, BPH officials and the originator of the format spent several months considering how to adopt the original structure to meet California's unique laws and requirements.

The benefits of using SDMF, according to BPH officials, is not only less subjectivity in parole considerations, but factors of relevance to a particular case will be given the appropriate weight for that case; while many factors may be present in several cases, those factors can be of more importance in certain circumstances than others. And, because the panel members are giving their greater consideration, and therefore time, to those more weighty factors, the hearings should be of shorter duration.

The worksheet for SDMF identifies a baker's dozen 'domains,' or areas for consideration by the parole panel, most of which will be evaluated in relation both to the relevancy to the inmate and the degree to which the domain presents an aggravating, mitigating or neutral impact on the case. While creation of the SDMF has not been rushed, the implementation and training of both commissioners and inmate attorneys (to say nothing of informing the inmates themselves) has been done at a pretty rapid pace, and in the case of inmate attorneys, appears to be simply on-the-job training.

After considerable research we're cautiously optimistic about the new process. On the whole, we're relying in part on the input from inmates and attorneys who have had hearings using the new process to provide us with their 'insight.' And, we've stepped up our attendance at parole hearings as well, as nothing can replace in-person observation and knowledge. As things progress and our opinions solidify, we'll let you know.

## **NOW MORE THAN EVER**

BPH has announced it will be modifying the manner in which attorneys for the state appointed list are selected, and performance will now be a real consideration of that selection. And where can they get reports of that performance? Well, to our mind, with the end users and that would be you, the prisoner.

And yes, you can write BPH with your thoughts and concerns, and in fact we urge you to do so. But we'd also ask that you respond to the following survey, as we've got several years of survey results we'd like to update and improve, all with an idea to providing this compendium of data to the BPH.

Be real and be realistic. Consider what we're looking for here—was your attorney a help to you, or just a body sitting at the same side of the table? Did s/he give you support and advice on the day of the hearing or seem more interested in breaking for lunch. Did they know your name? Return your documents? Go above and beyond, or just barely make the cut? Inquiring minds (ours) want to know. And now is the time.

### 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 particularly helpful. 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 (how many) \_\_\_\_\_ EVER FOUND SUITABLE/WHEN \_\_\_\_\_

ATTORNEY NAME:private/state\* \_\_\_\_\_ PRISON \_\_\_\_\_

MET MEET BEFORE HRG? (# of times, length) \_\_\_\_\_ HOW FAR IN ADVANCE OF HRG? \_\_\_\_\_

TIME SPENT CONSULTING \_\_\_\_\_ OBJECT TO PSYCH EVAL? \_\_\_\_\_

LANGUAGE PROBLEMS? \_\_\_\_\_ WAS ATTORNEY PREPARED? \_\_\_\_\_

DID S/HE BRING ANY DOCS NEEDED? \_\_\_\_\_ SUGGEST STIP/WAIVE? \_\_\_\_\_

**COMMENTS:**

(Please provide details regarding attorney's performance, or lack of, including interaction with parole panel and/or any DAs and VNOK present. Was attorney attentive during pre-hearing meeting and hearing, did s/he provide support/advice to you? Was s/he knowledgeable re: your case and/or parole process? Had s/he read your C-file before meeting with you? )

\*required