



## **YOUTH OPPORTUNITY PAROLE HEARINGS-COMING SOON!**

The New Year will mean new parole chances for thousands of California prisoners, convicted as juveniles and sentenced to long determinate terms or life terms in California prisons. SB 260, the Youth Opportunity Parole Hearing (YOPH) legislation, will bring these prisoners to newly constituted parole hearings, sometimes before they might otherwise be considered and, in the case of determinate sentenced, when they would not otherwise be considered.

Attorneys, advocates, families and prisoners are scrambling to figure out just what these new hearings will mean for specific individuals and lifers as a whole. Also scrambling is the Board of Parole Hearings, charged with identifying those entitled to the new hearings, updating psychological evaluations (also to be done with new considerations) and scheduling hearings for all those entitled to a 260 hearing, all in an 18 month window. Reportedly, FAD psychs and the parole commissioners have or will have received specialized training in how to consider the "hallmarks of youth" called for in the new law. The youth review hearings are, as of late November, scheduled to begin in January. The BPH has already identified 28 prisoners whose hearings are scheduled in January and will be the first to receive YOPH consideration.

LSA, after speaking with attorneys, the board and Human Rights Watch, one of the primary author groups of SB 260, has been able to construct the following framework for how the hearings will be held, who will be entitled to 260 hearings and when various prisoner cohorts might expect to have those hearings scheduled. Keep in mind, as of this publication date, the BPH has not yet released in detail the procedures for scheduling the hearings. Although those details are expected at any time (and time is getting short!) the board's legal team has yet to finalize their recommendations. First hoped for at the October BPH executive meeting, then November, sources now say the procedures

will be available at the December executive meeting. Expectations are that these new procedures will be adopted into board policy via administrative directive.

The following is a brief and general summary of how and when the hearings are expected. For more detailed information please contact LSA for a free, multi-page hand out on the whys and wherefores of SB 260. Not only is complete and detailed information too lengthy to print in Lifer-Line, the finer details have not yet been announced.

**WHO:** Any prisoner convicted of a crime committed before the age of 18, given either a long determinative sentence or a life with the possibility of parole sentence is eligible for a Youth Offender Hearing. The longest term of sentence, whether that is the sentence for the felony conviction or enhancements related to that crime will be the 'controlling offense.' This applies to both determinative sentenced prisoners and lifers.

**WHO ISN'T:** Those whose life sentence was the result of a third strike, a first strike rape (under Jessica's Law) and those sentenced to life without parole. Also those who committed a new crime after the age of 18 that resulted in a long or life sentence (likely to have been committed while incarcerated).

**HOW LONG:** Those with determinative sentences longer than 15 years are eligible for a YOPH in the 15th year of custody; for those serving a term of less than 25 to life (example: 15 to life) eligibility will begin in the 20th year of incarceration; and those sentenced to a term of 25 years or more to life will be eligible in the 25th year in prison.

**WHEN:** YOPH hearings will begin in January, 2014. Any lifer already slated for a parole hearing in 2014 or the first 6 months of 2015 and who qualifies under the terms of SB 260 will receive his scheduled hearing under the umbrella of SB 260. For those who fall under SB 260 and who do not have a hearing scheduled in those 18 months, including determinative sentenced prisoners, who heretofore were not seen by the parole board, will have hearings scheduled within that time frame. Just how fast and in what order remains to be announced.

**WHERE:** YOP hearings will be conducted at every prison where affected individuals are held.

**HOW:** The hearings will be held in much the same manner as current parole hearings, with the exception that psych evals and deliberations by the parole commissioners must give "great weight" to what are termed the 'hallmarks of youth;' diminished culpability, lack of clear understanding of impact of their actions, lack of impulse control and susceptibility to peer pressure, among other factors. The YOPH sessions will be conducted by the present Parole Board commissioners and Deputy Commissioners.



**WHAT DO I NEED TO DO?** Nothing. If you are eligible for parole consideration under the YOPH guidelines, even if you are a determinate sentenced prisoner, the BPH will identify your case and schedule a hearing for you as well as provide an attorney (if you cannot or choose not to hire a private attorney) and notify you of your hearing date. Understand, that determinate sentenced prisoners may be in the later group of inmates scheduled for hearings. At present there is not a mechanism available to determinate sentenced individuals to request their hearing be held sooner, as there is for lifers via a Form 1045-A; Petition to Advance.

**THEN WHAT?** If found suitable at a YOPH hearing prisoners will be paroled, either in accordance with statute for their offense (in the case of lifers) or released right away, in the case of determinate sentenced inmates. Lifers must still undergo the Governor's review, but the clear intent is that the Governor also will give 'great weight' to the young age at the time of the crime. If found unsuitable the requirements of Marsy's Law still remain in play, but once again, the consideration of the hallmarks of youth are supposed to be given great weight by the commissioners in determining denial length. For those with determinate sentences, they will receive another hearing either at a date set by the board (length of denial) or be released at the end of their sentence, whichever comes first. Prisoners may also appeal denials via writs. For lifers denied parole every hearing after January, 2014 will be held under the considerations of YOPH.

As previously stated, there are many, many details to SB 260. Some already known, some still to be worked out. For complete information please write LSA asking for details of SB 260. This is one time we hope those writing to us will include a SASE, as we anticipate a substantial number of requests. As new or additional information is available we will publish that information in Lifer-Line and California Lifer Newsletter.

One more request. Lifers, please share this information with determinate sentenced prisoners. In many ways, parole hearings will be even more harrowing for this cohort, who, until now, never knew they would have to face the parole board and may be woefully uninformed about what it takes to be found suitable.

## **IN MEMORY OF GARY WILLIAMS**

*A founder of Prisoner Outreach Program, rehabilitated in spite of CDCR*

When Gary Williams began a 25 to life sentence in 1978 he was, by his own admission, responsible for what the parole board likes to refer to as heinous crimes. Thirty-four years later, when he died in December, 2012, Gary had, through his own initiative, insight, and care for humanity become what some have described as "the Mother Teresa of inmates." But in spite of his changed character, his continual giving back and work with teens as well as other inmates, the parole board never recognized those changes and continued to view him as a danger to society.

One of Gary's outside friends shared his memories of the man he knew. "His passion for helping others was best exemplified in the Prisoner Outreach Program (POP) which he helped create. Working with prison staff sponsors, he and his colleagues invited groups working with "at risk youth" to the prison and gave them a tough love reality check tour of life behind bars and some very valuable time talking with the guys who were living that reality. Needless to say some kids walked away from it shell shocked. I'm sure that some young people are walking the streets today and not behind bars as a result of that experience.

“The POP also raised money through food sales and recycling. They would vote each month on which youth groups to support. They sent money to the local Boy Scouts, Girl scouts, Irene Larson After School Center, Pace Jam, etc., etc. The Solano visiting room was wallpapered with drawings from kids in these groups thanking the POP for its support. Gary took great pride in giving his visitors a tour of these "works of thanks". [My wife] and I were two of the people who had the pleasure of getting that tour.”

Like most lifers, Gary spent time in several institutions, most recently at Solano and CMC. In 2012 he was denied parole again, this time by former Commissioner Ferguson, now departed from the board. Around the same time Gary’s health began to fail, the result of the resurgence of a previous ailment. He was transferred to CMF, where he passed away on Dec. 8, 2012. Gary was fortunate in one respect; his long-time free world friend was able to visit him the day before he died, so Gary knew that he was valued and would be missed.

LSA is fortunate to be the beneficiary of Gary’s legacy. We have received an anonymous donation of just over \$400 in Gary Williams’ memory. There are many, many more lifers still in prison who, like Gary Williams, have changed their lives and outlook over the decades, not because of the help of CDCR, but in spite the hindrances, lack of substantive programming and repeated rebuffs by the parole board. We will continue to work for these and all lifers, to make sure they have a real opportunity to change their lives and have that change acknowledged through parole, as stated and intended in the law.



**GOV SAYS POPULATION DEAL IN SIGHT**  
*DOES HE NEED GLASSES?*

Governor Jerry Brown, speaking at an education event in Los Angeles recently, told reporters he was “reasonably optimistic that we will come to agreement on something we can make work.” The Governor also reported he had personally met with Judge Peter Siggins, named by the federal panel as an arbitrator of sorts, between the administration/CDCR and prisoner attorneys.

Brown also indicated he would be speaking to wardens at all California prisons for more information on the healthcare situation in the institutions. The deadline for the state to reach a maximum of 137% of design capacity for California prisons, was pushed to late February, the result, apparently, of progress in talks between the state and prisoners’ attorneys and reported to the federal judges in October.

Although no details have been announced, as part of the deadline extension, the state has been barred from sending additional prisoners to out of state prisons but apparently can maintain the same numbers out state as when the judges stopped additional transfers. As the negotiations continue, there remains no indication that lifers will be included in any possible ‘early release’ of prisoners.

## LATEST BPH STATS SHOW CHANGE IN PAROLE OUTLOOK

According to statistics recently compiled by the Board of Parole Hearings there are currently some 35,250 lifers in the California prison population; that represents over 25% of the current prison population of 125,000. Of those, 9,499 are included in the board's calendar, which means they are within 12 months of or past their MEPPD. The average age of lifers in the BPH calendar is 45, a bit older than the average age of prisoners in general, at 38.

In line with the prisoner population, where women represent about 4.7% of prisoners, in the BPH calendar women account for 4.3% of those awaiting hearings. In 2012 the board scheduled 4,760 hearings, 830 of which were initial hearings. Although there are no firm figures available the best research indicates parole is granted at initial hearings less than 4% of the time, at least in data available for the first seven months of 2013. On average, an inmate is granted parole at his/her 7th parole hearing.

In calendar year 2012 the BPH made 670 findings of suitability, or a grant rate of about 17%. Governor Brown reversed approximately 18% of those grants in 2012.

And while this number is surely not where we would like to see it, or believe it could and should be, we need to keep perspective on the numbers. Ten years ago, in 2003, the board held 4,478 parole hearings and gave only 168 grants; a grant rate of 3.8%. Nearly the same number of hearings in 2012 resulted in nearly 4 times the number of grants.

Even 5 years ago, in 2008, a total of 6,883 hearings, 30% more than in 2012, resulted in only 293 grants, less than half the number found suitable last year. By the time Life Support Alliance was formed, in 2010, the grant rate had risen to about 8.8% with 2011 grants coming in at a rate of 11.5%.

At present, best indications are that over 1,400 former life term prisoners are on parole in California. Times are changing and so are opportunities for lifers. It still is not easy to be found suitable for parole, but more and more it is possible, if lifers are prepared and ready to articulate their change to the board.

### **“IF WE BUILD IT, THEY WILL COME”**

*Said the president of a private prison company. 16 years later, he's right.*

Over a decade and half ago David Myers, the president of Corrections Corporation of America (CCA), predicted that, no matter how remote the location, if his company built a prison anywhere, prisoners would be found to fill it's cells. And California has led the way in proving him right.

In spite of continuing legal battles to reduce the state's prison population and a ban on shipping inmates out of state to meet that population cap, Gov. Brown recently signed a contract with CCA to lease their Mojave Desert facility for 3 years at a cost of \$28.5 million per year. CCA prisons in Arizona, Mississippi and Oklahoma already hold nearly 8,000 California inmates. The new deal was inked in an effort to expand the state's in-state prison capacity by some 2,300 prisoners and includes the caveat that the private prison will be staffed by CCPOA guards.

California, paying CCA some \$214 million last year, is second only to the federal government (\$752 million last year) in filling CCA's coffers. But CCA is giving back—sort of. In the 2011-12 election

year CCA spent \$290,000 on California political campaigns, including \$15,000 to Brown's political war chest and another \$50,000 on the Brown-backed initiative to raise taxes. Spending less than \$350,000 and receiving \$214 million. Not a bad return on investment for CCA.

James Austin, nationally renowned expert and head of a criminal justice research organization, has testified that nearly 23,000 current inmates could be released without compromising public safety. Austin, using one of the state's own computer programs, has determined that nearly 40% of the state's current inmates could be released and would be unlikely to return to prison within 3 years.

Brown, however, has disregarded that model, saying simply "Public safety is the priority." So it appears that rather than take the more difficult step of championing sentence reform, which is widely recognized as a needed improvement in California justice, or agree to advanced parole for older and ill prisoners, the Governor would rather continue the decades-long chant of build build build, even if what's being built will be rented rather than owned. Even Texas, land of death penalty advocates, has been able to actually close prisons as a result of comprehensive sentence reform.

What happened to the politician who in 2003, as Mayor of Oakland, called California's sentencing structure "an abysmal failure?" He became Governor of California in 2010.

### DOC MILLER'S 2013 LIFER PICNIC



Donald "Doc" Miller's fifth annual former lifer picnic was held Oct. 12 at Doc's home in Walnut, Ca. Above is a composite photo of most of the lifers in attendance, including Doc himself, second from the right, back row, picture on the right. Great food, fellowship and reunions. It's great to have so many lifers free that they won't all fit in one camera frame!

According to BPH statistics, about 1400 lifers are now on parole, with new grants being given at the rate of 10-15 per week. Here's to an ever bigger gathering next year!