



Public Safety and Fiscal Responsibility

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NOVEMBER 2018

LIFER-LINE

VOL. 9 ISSUE 11

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2018



BROWN RAMPS UP COMMUTATIONS, FOCUS ON LWOP

In a not-unexpected move Gov. Edmund G. Brown, Jr. issued a lengthy list of pardon and commutation decision the day before Thanksgiving. Offering up a total of 30 pardons and a whopping 70 commutations of sentence Brown appears intent on making an impact on the sentencing and penal system in his last months.

Pardons are granted to those who have served their time in prison and have been released, while commutation of sentence allows those still serving time to see possible relief earlier than expected. Those who received commutations cutting their sentence length must still, for the most part, appear before the parole board for that final determination of whether or not they 'still pose and unreasonable risk of danger' to the public.

Nearly half of the commutation sentences, 32 in total, went to LWOP inmates, giving them a chance for a second chance, usually commuting the no-hope sentence to 25 to life. Inmates whose sentence is thusly commuted are not released but do gain the chance to make their case for parole before the Board of Parole Hearings. Nine commutations went to women prisoners, all but one of that number LWOP.

Many of the LWOPs who saw relief under Brown's executive actions will go before the parole board rather quickly, as many of Brown's articulation of sentence years reflect either the number of years that individual has either served, or their time served will bring them before the board in 2-3 years. Perhaps Brown had in mind BPH Executive Director Jennifer Shaffer's observation that 'it isn't a good idea to surprise someone with a parole hearing,' i.e., most prisoners need time to prepare for a hearing, get their parole plans together and gather support letters, among other things.

While a detailed investigation of the commutations reveals many interesting patterns, recitation of those details would take a multi-page report in itself. Suffice to say, other considerations apparently weighing on the Governor's mind in deciding on clemency actions were (in part) the age and relative served of the individuals (for those of advancing age, that factor was of note in Brown's commutation

message), relative time served and if, as in the case of several of the women prisoners, the inmates themselves had been victims, most often via battered partner evidence.

Also noted was the age of those who were sentenced to LWOP as juveniles. While legislation is in place that bring those, who received an LWOP sentence for crimes committed before they were 18 years of age, Brown notes several of those LWOP inmates received that sentence when they were 18, 19, 20 years of age; outside the reach of the law, but still under the umbrella of what would, under YOPH laws, juveniles. By commuting those LWOP sentences and noting in each commutation message the age of the inmate at the time of the crime, Brown may be expressing his opinion on both LWOP sentences and the restrictions of the law outline juvenile LWOP. Or not. With Jerry Brown, impugning motives is always risky.

Several prisoners saw sentences commuted to time served or immediate parole, including an aging individual (71 years old), terminally ill and another who appears to be a third striker, sentenced to 30 to life for a non-violent crime, and yet another sentenced to 25 to life for stealing a bicycle. One prisoner, nearly 60, seriously ill and having served 17 years on a 250-year determinate sentence for a series of white-collar crime, will, by direction of the commutation letter, see immediate release.



In seeking commutations from Brown, it apparently helps to have not only support, but 'names' in support of relief. Instances include prisoners whose consideration was supported by numerous prison staff, religious leaders, members of the legislature and, somewhat bizarrely, the head of a victims' rights group. Also notable, was Brown's decision to commute the sentence of Walter "Earl" Woods, creator of San Quentin's award winning "Ear Hustle" pod cast. Woods, 21 years into a 31 to life sentence, was his penal obligation cut to time served and has since, it appears, gone home.

Most of the 30 pardons Brown announced went to those convicted for relatively low level, mostly drug related offenses, who have served their time and parole time. Indeed, 21 of the 30 pardons were for those convicted of drug offenses usually along the lines of possession, possession for sale, or manufacture. The exceptions were two former prisoners, one convicted for involuntary manslaughter and one for voluntary manslaughter. Two pardons went to women former prisoners.

Of interest and note in the pardons were those of Roderick Wright and Tan Thanh Nguyen. Wright, formerly a state Senator, was convicted of perjury involving his legal residency for election purposes. Wright, who served 6 years in the state Assembly and another 6 years in the state Senate, was noted by Brown as having devoted 'much of his life to public service.' Brown also noted the law which Wright ran afoul of was changed by the state legislature to provide more clarity in the designation of a residence for voting and election purposes. Wright's request for pardon was supported by a veritable parade of current legislators, all attesting to his upstanding character and worthiness for parole.

Wright served no prison time, having discharged his 18 months of probation and 1,500 hours of community service in August 2017.

In an unusual pardon, Brown wiped clean the record of Nguyen, discharged from parole in April 2018 after serving more than 16 years for murder and robbery. Brown noted Nguyen was only 16 years old at the time of the crime, had only recently, at the age of 15 immigrated to the United States from Vietnam and was not the primary perpetrator of the crime. Although now discharged from parole, Nguyen, who apparently did not have the opportunity to become a citizen prior to his incarceration, could face deportation. A pardon, providing a clean record, may allow him to remain.

More pardons and commutations are expected from Brown before the end of his term. Traditionally done around such holidays as Easter and Christmas, Brown has upped the number of clemency considerations and grants over the months. Christmas, and the end of Brown's administration, still up-coming, are expected to see additional actions.

WE REGRET TO INFORM YOU....

For those Lifer-Line readers who are also familiar with our larger, bi-monthly publication, California Lifer Newsletter (CLN), the time has come to announce a change. Unlike Lifer-Line, which comes to prisoners and other interested parties free of charge, CLN has always been a subscription only publication.

This is largely because of the size and expense of production. Usually about 50 pages and sent directly to prisoners via US Postal Service, each publication of CLN costs LSA roughly \$2,500; hence the necessity for paid subscribers. Heretofore we have always provided two copies of each CLN to prison libraries, where hopefully more inmates, who might not be able to afford the nominal subscription fee of \$35 per year, could access the publication and make use of the court case analysis therein.

But. There's always a but. We often hear from prisoners in many institutions that CLN never seems to reach the library. We're not sure what the problem is; the mail room (perish the thought), staff unsure where to send the publication or just mystical disappearance. But it appears CLNs often don't arrive at the intended destination. And while this is irritating, the crowning glory, so to speak, is the cost to our donation-driven organization of printing and extra 70+ copies and the expense of mailing those copies. It is not inconsiderable and puts a strain on our always tight budget.

So, with regret, we've arrived at the conclusion that we can no longer send free copies to each institution. To be fair, some prisons, using the prison library budget, have actually paid for subscriptions, and those seem to arrive in tact. So, going forward, those who want to access CLN sans personal subscription, should urge their institutional librarian to contact us for subscription rates. Yes, we'll cut prisons a deal—no not as good as the one individual prisoners get, but a deal nonetheless. The decision wasn't taken lightly, but with great regret. But, after careful consideration, it appears CDCR and the State of California have deeper pockets than LSA. And given the free services we routinely provide to CDCR, perhaps asking the department to provide this resource to prisoners isn't out of line.

So, if you'd like to continue to see CLN in your prison's library, let those controlling the purse strings know.

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:private/state* _____ PRISON _____

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

TIME SPENT CONSULTING _____ OBJECT TO PSYCH EVAL? _____

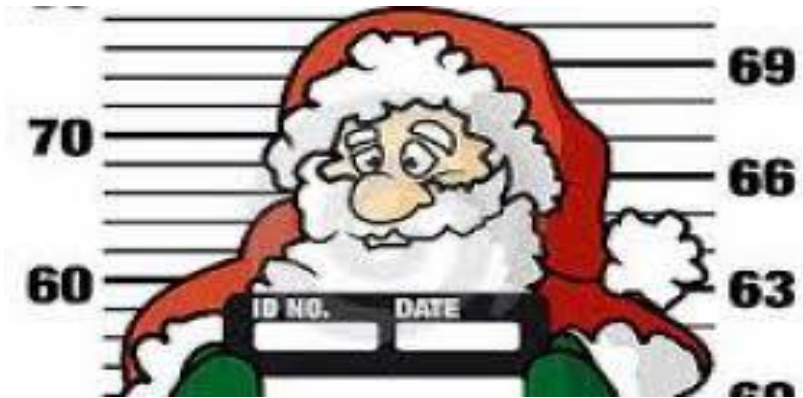
LANGUAGE PROBLEMS? _____ WAS ATTORNEY PREPARED? _____

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



WHY SANTA CAN'T GET INTO PRISON VISITING

Report from visiting staff at (name yer poison...er, prison)

Approximately 800 hours today, 25 December 2018 staff observed a suspicious individual attempting to gain access to visiting processing.

The Suspect appeared to be a white male, late 60s in age, approximately 6 feet tall, weight approximately 300 pounds. The Suspect appeared to arrive on grounds in an unlicensed, non-gasoline fueled vehicle which had several unauthorized wild animals attached to the vehicle. Animals other than seeing eye dogs or personal assistant animals are not allowed on prison grounds. Vehicle was confiscated and animals impounded.

Suspect had no visiting appointment.

Suspect was wearing unacceptable attire, to wit:

- Red in color (dis-allowed due to gang connection)
- Excessive facial hair obscuring features
- Hat, gloves, excessively large belt which did not appear necessary

The Suspect could not produce valid picture identification

The Suspect attempted to bring non-transparent bag containing personal items into visiting room

The Suspect appeared to be intoxicated or under the influence of illegal drugs. This opinion based on the observation of suspect's physical appearance and actions by trained observers. Suspect had rosy cheeks and red nose, characteristic of alcohol use. Suspect seemed in unusually good spirits, often laughing for no reason, characteristic of individuals under the influence of drugs.

Suspect loudly shouted "HO HO HO" repeatedly, probably gang-related slang referring to females.

Suspect had odor of pipe tobacco about his person, probably attempting to smuggle contraband tobacco into prisoners.

When asked why he was attempting to enter visiting suspect replied he wanted to spread Christmas cheer to all. "Christmas cheer" may a code phrase for contraband alcohol.

When staff attempted to search suspect he laid a finger aside his nose and disappeared. May have been assisted by accomplices in his escape as laughter was heard and one small green shoe with curled toe and attached bell was found.

Have issued a BOLO for individual and have placed all yards on lock down as a precaution.

REGULATING THE REGULATIONS



News on the new regulations front, in two important areas. At a recent BPH Executive Meeting the final draft version of regulations on Youth Offender parole hearings and the long-awaited regs that will implement changes in family visiting for lifers. We'll take the latter first.

Although family visits for lifers and LWOP inmates were restored well over a year ago, the final version of the regulations defining those visits and policy have been 'in the works' for months. And months. Acting Sec. of Corrections Ralph Diaz' office has been pro-active in keeping us informed on the progress of those regs and in line with that action Diaz' office provided LSA with an update in the waning days of December, noting the final version of those regs has now been finished, forwarded to Diaz for his review and signature; the final step in enacting those changes.

These new regulations must, by law, be complete and in place by Dec. 29 and it seems the department will, indeed, meet that deadline. In fact, Diaz' office indicated the finalization may happen slightly earlier. Once the regs are signed and released we will summarize in Lifer-Line and make the text available to inmates, and, for families, post a link to those regs on our social media pages. Some clarification is expected to the current regs that continue to restrict lifers and LWOP with certain crimes and past charges. Those changes will hopefully make family visits available to more long-term prisoners.

Released at the November Executive Meeting of the BPH was the final version of proposed text for regulations outlining the process for youth parole hearings. No surprises in the language or policies, but the new proposed regs do definitively set out the guidelines for YOPH, timing and process. The proposed regs add several pages of new language to Title 15, Division 2, specifically Section 2440.

The language also defines what is considered the controlling offense for purposes of determining YOPH eligibility, what crimes/actions could preclude YOPH consideration and the timings of YOPH hearings. Also outlined is the process to appeal a decision to exclude an individual from youthful consideration, the requirement for a YOPH-oriented CRA and what youthful factors are considered.

What is not specifically outlined is what, in fact, constitutes "great weight," the consideration commissioners are required to give to those factors in determining parole suitability. Which, of course, is pretty much the '64 Thousand Dollar Question.'

While, at some 6 pages, too lengthy to reprint here, we will make the entirety of the regulations available to those who would like to read and consider the language themselves. Just send a request, noting "YOPH Regs" on the envelope, along with a stamp, to our mailing address and we'll send you a copy. PO Box 277, Rancho Cordova, Ca. 95741.