

LIFE SUPPORT

HOPE



ALLIANCE

HELP

& California Lifer Newsletter

HOME

P.O. Box 277 * Rancho Cordova, CA. * 95741

* staff@lifesupportalliance.org *

JANUARY 2020

LIFER-LINE

VOL. 11; ISSUE 1

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2020



FIRST STATS LOOKING BACK AT 2019

As we await the release of BPH's yearly Significant Events report for 2019 we can offer up a short preview of some information contained therein, figures that give us a glimpse of what last year brought to parole. There will be much more information to be teased out of the report, typically made public in February, but some of the most interesting and important facts are out.

The big question on everyone's mind—how many parole grants were made last year? Answer? A record 1,183 up from the 1,136 in 2018 and another all-time high. The board noted an increase in the number of parole hearings scheduled and held, though that number is not the same, typically a substantial number of hearings are not held due to stipulations, postponements and cancellations. In 2019 some 6,061 hearings were scheduled.

Of those held, the 1,183 grants represented 34% (though the grant number equated to only 19% grant rate for hearings scheduled). That number is down somewhat from 2018, when 39% of hearings held to completion resulted in grants. As to why the grant rate decreased slightly, BPH officials say look no farther than a couple of more statistics; 43% of hearings were initial hearings, the first time the individual prisoner came before the board.

And as those who have been to hearings can attest, it's harder to win a grant at an initial hearing than subsequent hearings. Why? Not because the factors of suitability change, but historically grant rates for initial hearings have been lower, as often the potential parolee isn't as completely prepared as they become at later hearings.

The other factor probably contributing to the somewhat lower grant rate was the increased number of determinate sentence length (DSL) inmates coming to hearing under various changes in law, from Prop. 57 through YOPH to elderly parole hearings. Typically, DSL inmates, who may have started their rehabilitative efforts relatively recently, often after finding they would be facing a parole hearing, have an overall lower grant rate than other cohorts.

Peering into the future, the board prognosticators are anticipating over 7,600 scheduled hearings, of which they estimate 68% will be initial hearings. The increase in initial hearings is attributed to the effects of Prop. 57, YOPH and non-violent 3rd strikers now included in parole hearings. Regarding

the last category, so far, some 2,335 inmates serving sentences for non-violent convictions have been referred to the BPH for the non-violent parole process.

And on a related front, the board reports that the FAD performed a reported 3,249 CRAs in 2019, about 500 more than the previous year. The breakdown of risk ratings will have to wait for the release of the Significant Events report. More information as it becomes available; watch this space.



NEW INFORMATION QUEST: VNOK

We learn a lot from our constituents—that would be you folks, the residents of CDCR’s structured living facilities. Once again, we’re reaching out for information, this time on the topic of VNOK (Victims Next of Kin) at parole hearings.

Under Marsy’s Law, the next of kin of crime victims, who are registered with CDCR and apply to attend parole hearings can do so. And in about 30% of hearings they do attend. But Marsy’s Law goes further, allowing 2 victims representatives to come along, as well as speak both in place of or in addition to the victim or victim relative. And one more—any victim or next of kin can also bring along a (according to the guidelines) non-speaking individual there for emotional support of the victim or relative

So, that for every victim or family member who attends a hearing, up to 4 people can actually be present, and up to 3 of those speak. Under the terms of Marsy’s Law, VNOK speak last, just before the panel adjourns for deliberation, and cannot be questioned, rebutted or cut short. And while their comments are supposed to be about the impact, both immediate and lasting, of the crime on themselves and their families, in reality they can, and do, speak on just about any topic, related or not.

No one disputes victims and/or their relatives have every right, both legal and moral, to speak on the impact of crimes against themselves or family. And no one disputes coming to hearings is a difficult, searing and emotional experience for all concerned, nor that victims can’t simply ‘get over’ those effects. That doesn’t happen, regardless of the time involved.

The question has always been, how much impact does the VNOK statements have on the outcome of the hearing and is the intent and the tenants of Marsy’s Law being followed? What is said, what actions are taken and what do statistics from these hearings tell us?

Which is where the inmate population comes in. If you’ve had a hearing within the last 3 years that has been attended by VNOK, whether one or 20 (and yes, that happens), we’d like to know. You don’t need to send your transcript, those are public record and available to us. But we’d like your impressions of the events, the tenor of the hearing and your reaction to the VNOK statements. We’re not looking for names and not on a crusade to ban VNOK from hearings, even if such were possible, and it isn’t.

We’re looking for a body of data on VNOK participation, hearing impact and comportment. No form involved, just send us your name, number and date of hearing and your thoughts on the events. We’ll compile our own data and see what we can learn.

Why? Because the better we understand the relationship between VNOK at hearings, grants and inmate articulation, the more help we can be to you, the potential parolee, in getting ready for your hearing. We’re waiting to hear from you.



WHAT'S IN YOUR PACKET?

Since CDCR went electronic with C-files a few years ago we've heard, and seen, all sorts of problems resulting from the scanning of all that paper in old C-files into the electronic version. This can sometimes manifest in missing chronos and certificates. That's the purpose of the Olson review, to check and be sure everything you expect to be in the file is indeed there.

Counselors who are 'too busy' or impatient to allow lifers a real and meaningful chance to do an Olson review, staff who simply refuse to scan inmate-submitted documents into the file and the BPH's 20-page limit for submissions on the day of the hearing leave many inmates anxious in the extreme. We'll try to provide some actual practical advice and solutions. First alert your attorney to the issue, so that he/she can put it on record the fact that you were not able to do an adequate Olson review.

Second, the 20-page rule isn't in Title 15 or the DOM but is rather an Administrative Directive from the BPH itself. And, it is at the discretion of the commissioners; if they see the value in allowing more than 20 pages to be submitted on the day of the hearing, they can.

Third, support letters are NOT counted in that 20-page limit—any number can be submitted at any time, up to and including on the hearing day. And don't worry if you're submitting hand-written documents—those are acceptable, but obviously (or maybe not so obviously to some), they should be cleanly written and easy to read. Don't make the panel guess what the words are.

Chronos and certificates are probably in the file, but you might bring your copies, and if your file is missing one you feel is important, offer it up at that point. And it can sometimes help to provide the panel a list of those certificates, chronos and the like, listed chronologically. That way, they won't have to search completely through the file. And keep a copy for yourself as well, make it your cheat sheet, adding a note on an important concept you learned from each class or group.

Acceptance letters to transitional housing and job offers are also not counted in the 20 pages. And a good relapse prevention plan is a must. A word on book reports: book reports can be very effective, but not your high-school version; book reports should show how the information in that volume impacted your insight, empathy or thinking. Bring the reports, but be prepared for a not-unusual question from the panel: "What did you learn from this book?" Those are some of the 20 pages you should strategically select.

Pictures, of family, residences, cars, etc. are nice, but not critical to your parole plans. Think about what the board looks for: ways to support yourself on release, where you will live and who will be your primary safety net. Remember, the panel has a pretty good idea on what you've been doing while inside, they're looking to you to show them what you'll be doing on the outside.

NON-VIOLENT PAROLE HEARINGS---THE STANDARD IS THE SAME

Anyone who has dealt with CDCR for any length of time knows the watchword on any given day is often confusion—on regs, implementation of programs and policies and what to do next. To be fair, CDCR and all its divisions don't create all of this confusion, as they are often at the mercy of the legislature and courts; the legislature passes laws that are not well thought out regarding unintended consequences, vague as to implementation and intent and controversial, begging for court challenges. And the courts often take their own considerable time in handing down decisions on the viability of new laws, meaning regs to implement those laws can't really be written with any confidence until the decision is rendered.

The result, at any given time, is often confusion, chaos, rumor and guesswork. And even after the situation is reconciled it often takes considerably longer for the actual results, facts and how-tos to trickle down to the prisons and even longer to be disseminated among the prisoner population.

All of which was the case several times over with the passage of Prop. 57, which initially excluded several prisoner cohorts, predicated the filing of challenging lawsuits, many of which are now resolved and the resultant regs being promulgated and put into effect. But—that word still hasn't reached many inmates. We know this because our office continues to field questions on various aspects of Prop. 57, who it does and doesn't impact and how that impact is felt. And while most of this information is available on the internet, the CDCR website, specifically, we do understand, most lifers don't have access to the internet. At least officially.

In aid of understanding, herewith is a summary of the process of Non-violent Offender Parole Hearings for Indeterminately Sentenced Inmates (prisoners, usually third strikers, serving a life sentenced for a non-violent crime). For those who like to quibble about details, please note, this information is taken directly from the BPH website, which is pretty much as direct from the horse's mouth as you can get. Remember, we don't make the rules, we just report them, with hopefully clarifying comments bracketed [] and [italicized].

“A nonviolent offender parole hearing is a parole suitability hearing for an inmate sentenced to an indeterminate term (life with the possibility of parole) under an alternative sentencing scheme (such as California’s Three Strikes Law) for a nonviolent offense.[In this case, the instant offense, or the crime for which the prisoner is serving his/her current term]. Under this parole hearing process, the California Department of Corrections and Rehabilitation refers certain nonviolent offenders to the Board [this initial determination of eligibility is made not by the BPH, but by CDCR classification unit] for a parole hearing and possible release, once the inmate has served the full term of his or her primary offense. All of the general information about parole suitability hearings is applicable to nonviolent offender parole hearings [this means the standard for suitability is the same; are you a current risk of danger to society].”

The nonviolent offender parole hearing process was enacted by emergency regulations filed by the California Department of Corrections and Rehabilitation that took effect on January 1, 2019. Implementation of nonviolent offender parole review hearings was mandated by the passage of Proposition 57, The Public Safety and Rehabilitation Act of 2016, approved by the voters in November 2016. See also In re Edwards (Sept. 7, 2018, B288086) __Cal.App.4th__ [237 Cal.Rptr.3d 673]. Referrals of nonviolent offenders to the Board for parole hearings began in January 2019.”

WHO IS ELIGIBLE?

“Only nonviolent offenders sentenced to an indeterminate term (life with the possibility of parole) are eligible for a nonviolent parole hearing. The inmate must have completed the full term of his or her primary offense, which is the single crime for which a court imposed the longest term of

imprisonment. For purposes of determining an inmate's primary offense, the term of imprisonment for inmates sentenced to a life term under an alternative sentencing scheme for a nonviolent crime shall be the maximum term applicable by statute to the underlying nonviolent offense. Additionally, the inmate cannot have a conviction for a violent felony (as defined in Penal Code section 667.5, subdivision (c)) associated with his or her current incarceration. Inmates who are required to register as a sexual offender under Penal Code section 290 are also not eligible for a nonviolent offender parole hearing."

"Inmates sentenced to an indeterminate term for nonviolent offenses will be reviewed for eligibility for a nonviolent offender parole hearing by the California Department of Corrections and Rehabilitation [classification unit, not the BPH, as noted above]. Once an inmate is determined to be eligible for the process, the department will determine when the inmate will have served the full term of his or her primary offense. This date is called the inmate's nonviolent parole eligible date (NPED). Inmates who are reviewed will be provided written notice from the California Department of Corrections and Rehabilitation of their eligibility and their nonviolent parole eligible date. Eligibility determinations are subject to appeal by an inmate through the department's inmate appeals process."



TIMELINES FOR REFERRAL AND HEARINGS

"At least 180 days before an inmate's nonviolent parole eligible date, he or she will be referred to the Board for a parole suitability hearing and possible release. If the inmate has not already had a parole suitability hearing and is not scheduled to have one within 12 months pursuant to any other provision of law [if you're already on calendar for a YOPH or elderly hearing, that will be your hearing date].

Eligible inmates referred to the Board will be scheduled for a parole hearing as follows:

Indeterminately sentenced nonviolent offenders who are eligible for an initial parole hearing on or before December 31, 2020 and who, on January 1, 2019, had been incarcerated for 20 years or more and who are within five years of their Minimum Parole Eligible Date (MEPD) will be scheduled for a hearing no later than December 31, 2020.

All other indeterminately sentenced nonviolent offenders who are eligible for an initial parole hearing on or before December 31, 2021 shall be scheduled for a parole hearing no later than December 31, 2021.

Inmates will be provided written notice of the outcome of the referral decision by the California Department of Corrections and Rehabilitation. Referral decisions are subject to appeal by the inmate through the department's inmate appeal process. Inmates who are referred to the Board will be provided a written explanation of the Board's parole suitability hearing process.

Inmates will receive written notice about six months in advance of their parole suitability hearing date. Notices of the hearing will be sent to victims and their family members who are registered with the Office of Victim & Survivor Rights & Services. The Board will also send a notice to the district attorney's office that prosecuted the inmate [both VNOK and DA notifications are standard for any parole hearing].

"

Those qualifying for a NV hearing should also be aware the same review timelines apply, 120 for the BPH legal division to review the decision to be sure it comports with legal standards and then 30 days for the Governor's review. If the Governor has questions about a grant of parole he can refer that decision for review by the entire 17-member parole board, a process known as en banc hearing.

A LITTLE POINTED AND DARK-ISH HUMOR

Sometimes you just have to grim, or grimace, and bear it. Offered below, a few tid bits of jocularity, only truly appreciated by a special population.



I don't like to make plans for the day, because then the word "Premeditated" gets thrown around.

Sometimes people come into your life outta nowhere, make your heart race and change your life forever....those people are called the police.



Girlfriend: You said you had feelings!



Boyfriend: I said I had felonies.

Do the other dogs see the K-9 and say, Run! Its' the cops?'

