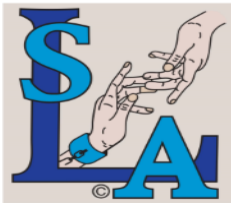


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TOP 3 LEGISLATIVE ACTIONS FOR LIFERS

For all the fits and starts, CoVid-caused and otherwise, of this legislative session, 3 bills stand out in their immediate and long-term impact on prisoners, especially lifers. As we go to press in the waning days of September, one of those bills has not yet been signed by the Governor, though by the time our incarcerated readers get this issue, that will have been accomplished.

In no particular order those bills are SB 118, SB 132 and AB 3234.

The impact of SB 118, a budget trailer bill, designed to bring policy and law into compliance with the budgetary needs for each budget year, is already in effect, but most lifers won't feel the total impact of the legislation until their parole begins. Under the terms of this bill, parole 'tails' for all inmates will be capped, and for lifers in particular, this will mean a huge difference.

Prior to passage most lifers were faced with an official parole 'tail' of 3-7 years, depending on their conviction (and when they were convicted) as well as the oft-repeated threat of 'life time parole.' While the specter of life time parole was a favorite scare tactic of some parole agents, it was more a threat than a reality (absent the untimely demise of a parolee, before the end of his/her parole tail), but nonetheless, it was daunting. That's not the case now.

Under the new provisions of SB 118 parole for all former state prisoners released on or after July 1, 2020 that cap is 24 months, for those not serving life terms. For former lifers, the cap is 36 months. This is a huge shift, especially for those with convictions of first- or second-degree murder, who, heretofore, had parole tails of 7 and 5 years respectively. Yes, we know there are still some long-serving individuals whose parole time was capped by laws in force at the time of their sentencing and conviction, the majority of lifers fell under the 3-5-7 time span.

Please note, this bill was specific for those released this year—it is not automatically retroactive. But for those currently on parole BPH is working with DAPO to create and put in place a way for those individuals also to see their parole time shortened. All of this, needless to say, is dependent on parole condition compliance. All those on parole will now receive a review within 12 months of their release date, to begin the evaluation process. More on this as the process and regulations are worked out.

SB 132, the “The Transgender Respect, Agency, and Dignity Act,” is an interesting bill that will probably cause more change and possibly upheaval than the prison system has seen in some time. Under provisions of this bill all those in the state prison system must be housed appropriately according to their self-identified gender, regardless of what gender identity was assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, and regardless of anatomy. Further, those individuals must be issued a prison ID reflective of their gender identity and be addressed not only with their chosen pronouns (he, she, they, them) as well as the appropriate ‘honorific,’ such as Mr., Ms., or Mx.

The last provision alone would be a stunner, as we have seldom heard staff in institutions address any inmate with any honorific. Additionally, the bill requires searches to be performed by an officer of the gender identity of the incarcerated individual’s self-identity and by an officer whose gender identity is female if the incarcerated individual’s preference or gender identity cannot be determined.



There are more details to this bill, but this will suffice for now, with more to come once the details of how these new provisions will be implemented are known. We know these new policies will begin with an private interview on these issues with those newly coming into CDCR and that under this law, at any time, an inmate can request a personal and private interview to comport with these new requirements.

AB 3234, another budget trailer bill, while passed handily by the legislature, has not, as we go to print, been signed by the Governor. The importance of AB 3234 to lifers lies in the change to elderly parole qualifications. And while the Governor has not yet signed the bill, it is uniformly expected that he will, and will do so within the next few days, by the end of September.

These changes will open elderly parole consideration to those inmates, both lifers and long-term determinate sentenced inmates, who are both 50 years of age and have served 20 years of continuous incarceration. This change allows elder parole hearings for those who are 10 younger and with 5 years fewer inside than the prior requirements for elderly parole.

Elderly parole, first installed as part of an agreement between the BPH and the federal 3-judge panel (3JP) overseeing prison population levels, was codified in 2018 with a significant difference. Under the BPH/3JP agreement, third strikers were included in elderly parole cycle; under the 2018 law, third strikers were specifically excluded. But, because the system was already in place and because agreements with the feds (like the 3JP) supersede some state laws, third strikers continued to be included in elderly parole.

Under the new guidelines in AB 3234, third strikers would once again been excluded. As will those whose victim was a peace officer, those with LWOP or condemned sentences. However, and this is still somewhat in flux, BPH has confirmed to us, third strikers will be included, saying “We would continue to follow the three judge panel order criteria for those inmates who are excluded from elderly parole under AB3432 for as long as the three judge panel order remains intact. This will require us to set up a double track process for those eligible under the Penal Code and those under the three-judge panel order.”

What the double track entails and how it will work, no one is quite clear as yet, but as soon as regs are promulgated to put this into place, we’ll be letting everyone know. For now, those who have served 20 continuous years of incarceration and are 50 years of age, will be on track for elderly parole consideration.

Watch this space.



RETURN OF THE ‘800 POUND GORILLA’

We’ve spent the better part of 6 months collecting information on staff, mostly custody staff, who, for whatever reasons, eschew wearing masks in the midst of a CoVid pandemic. No matter that several of their fellow guards have died from the virus, no matter that the memo from Sacramento directed the wearing of masks, we’ve got lists of names, locations and shifts of those who refuse to do so.

Hubris? Machismo? Bad-ass attitude? Whatever, although stupidity is the word that comes to our minds. But then, CCPOA has always had more than its fair share of, shall we say, nay-sayers and miscreants. If you catch the drift.

But a scrap of news caught our attention recently, the announcement by the president of the CCPOA, one Glen Stailey, that the union wants to return to those days of yore, when the union was the (in his words) “the ‘800-pound gorilla in the rooms,” and had a substantial impact on California politics. Stailey made the comments in the union magazine, the sub-aply named “Peacekeeper.”

As if that wasn’t enough fun, CCPOA then posted an on-line political ad, showing African American Democratic Assemblyman Reggie Jones-Sawyer, backer of several recent changes in the criminal justice system, with crosshairs superimposed over Jones-Sawyer’s image. The ad was removed after some raised eyebrows and voices, over the appearance of promoting violence.

Although violent crime in California is a historic low levels and public sentiment regarding sentencing and prison releases has evolved, Stailey seems poised to try and turn back the clock, to the old 'tough on crime' days that worked so well for CCPOA, but, as it developed, less well for the state. During a hot minute in the last few years CCPOA seemed ready to move on into the 21st century, but, well, perhaps not. Stailey has indicted his intent to take the union in what he calls "a different direction."

Newsflash Mr. Stailey—you can't go back in time. We won't let you. Get the gorilla cage.

CORRESPONDING ON THE COURSES

The response to the correspondence self-help courses offered and provided by LSA has been prodigious and we're enlisting and training more volunteers to help with the vetting and responses. We're catching up, sending out certificates of completion and achievement every day.

Hopefully we can provide a bit of clarity here, in regard to both the LSA-produced courses, Connecting the Dots and The Amends Project, and in responding to the in-cell mental health workbooks created by CDCR but provided by LSA. For those of you working your way through the correspondence courses, there are 4 parts to Connecting the Dots and two parts to The Amends Project.

After students mail in their responses to the first exercise (yes, there is 'homework,' these are real and serious curriculums), we encourage you to wait until you receive a response and a 'go ahead' from LSA. There have been some instances when our reviewers have asked responding students to provide a bit more detail and introspection (think of it as a rehearsal for the parole panel) before moving to the next step.

If you're working on those comprehensive mental health packets, please know you don't have to send the entire tome back to us for review and approval. On the first page of each, you'll find a list of the modules (units, chapters, all them what you will) in both Anger Management and Depression, as well as those questions for each module we'd like you to answer for us. All we need is a quick notation of what you're working on (Anger, Module 4 Homework Assignment Point 1 & 2, for example), and your responses to those questions. Please don't send them in piece-meal, wait until you've worked your way through the whole course, then send up all your responses.

And with good-faith efforts on your part, we'll send you a certificate of completion. To date we've sent out several hundred mental health packets, and lots of certificates.

If you need more information on either the correspondence courses authored by LSA or the mental health material, which we're providing, just send us an inquiry and we'll fill you in. There is a cost for the correspondence course, but, because of successful crowd funding efforts, we're able to provide the mental health packets, over 100 pages of CDCR-authored self-help, at no cost.

While we still can't do what we do best, bring workshops in person to a prison near you, we're doing what we can to provide self-help and encouragement to lifers during the lockdown. New programs are nearly ready for roll out, and while we hope to be able to see many of you in person, we're hedging our bets and so will make the programs available for self-study as well.



BALLOT PROPOSITIONS IMPORTANT TO PRISONERS

If you're still inside, you can't vote. But tell your family and friends

While Life Support Alliance is a non-profit, non-partisan organization, we can and should provide information to our members on important ballot measures facing all of us in November. Ballot propositions are, by their nature, intended to be non-partisan and non-political, though they are seldom either. On this year's November ballot voters will consider, among the dozen propositions impacting lifers and other prisoners, two we feel deserve special attention by our members and voters.

Prop. 17 would restore former prisoners' right to vote after completion of their prison term. This ballot measure was added to the ballot by the state legislature, a move that often signals that while the legislators would like to do this, they are reluctant to suffer potential political blow back, so they shifted that decision to the voters themselves.

Currently, even after release from prison, many former inmates may not be able to legally vote, until they finish their parole term, which is now considered part of their sentence. If Prop.17 passes, those who are released from prison but still on parole could, nonetheless, register to vote. There are other qualifications; they must be US citizens, residents of California and at least 18 years old. These last qualifications extend to every voter in California.

Our suggestion is that our members support this measure and vote YES. In addition to promoting rehabilitation and reintegration into society, studies across the nation have shown that those who have voting rights restored are less likely to recidivate. Once our LOs have completed their prison term, our belief is that we as a society should do everything we can to welcome them home, and that includes considering their opinions and thoughts on all issues—and the way to express that is via the vote.

Also in the ballot is Prop. 20, placed on the ballot by voter signatures. Often voters who signed with signature gatherers, didn't know exactly what they were signing. Prop. 20, also known as the Cooper Initiative, would effectively undo the gains made in changing criminal charges and sentences under past propositions, including Prop. 36, 47 and 57. In other words, years of progress in reasonable charges and sentences in proportion to the crime, would be undone if this initiative passes.

Supporters of this measure include major retail organizations, who blame a reported increase in shoplifting on their perception of criminals released under changes in sentencing and charging, and the California Sheriff's Association. This is being touted as a means to keep 'convicted child molesters, sexual predators and other convicted of violent crimes' from being 'released from prison early.' This is clearly a scare tactic as a deeper reading of the provisions of this measure show it will prevent consideration of those not convicted of violent crimes from consideration from certain types of

early release, prevent the BPH from re-considering some inmates a year after a denial, and basically put California back on track to re-fill the prisons.

It should not be a surprise, therefore, that we recommend our supporters, and those interested in prison reform, vote NO on this reprehensible and vindictive effort.

PLETHORA OF UPDATES

CoVid: at the end of September CDCR reports over 2,000 active CoVid cases in the prisons system, with a total of 67 deaths and over 14,000 prisoners touched by the virus. All prisons are still closed, no programming, no visiting, more quarantines, isolation, nasal swab tests and worry all around.

Several prisons are currently experiencing a second wave of outbreak, with no sure end in sight. And while CDCR is working on a way and timeline to reopen the institutions, the draft 'Roadmap to Reentry' has not yet been approved, though rouge copies are circulating. Basically, all plans revolve around the CoVid situation at individual institutions, as to when and to what extent things will return to what will become the new normal

Prison Closing: CDCR announced it will begin the permanent shut down of Deuel Vocational Institute, a 67-year old prison in the Central Valley's Tracy, that will result in the transfer of about 1,500 inmates to other prisons and the relocation of just over 1,000 staff, including 469 custody staff. Staff members are expected to be absorbed into staff at nearby institutions, primarily CHCF, MCSP, FSP and CSP-SAC.

The closure is expected to be complete by the end of September 2021 and will save approximately \$182 million per year. To date, DVI has been one of only 2 prisons that have not reported any CoVid cases among the inmate population.

En banc hearings: Yes, it's true it appears Gov. Newsom is referring more parole grants to en banc consideration, especially those prisoners with 290 convictions, female, or minor victims of any crime. And while it's not a scientific study, it appears from a perusal of the results, that the trend continues to be the entire 17-member parole board most often stands behind its member(s) who made the original decision, affirming those grants.

It also appears there are more members of the concerned public chiming in on these issues, since they can now do so via teleconference call, which seems to be perceived as more personal than a letter but now does not require a trip to Sacramento. And due to the increased participation, the board, in the interests of time, has reduced the time allowed each commenter from 5 minutes to 3 minutes each. If you find your grant headed to en banc, have your friends/family contact LSA for tips on ways to make the most of those 3 minutes.

Parole Grant Rate: BPH Executive Director Jennifer Shaffer reported recently that since the board began holding parole hearing via video conferencing the grant rate held steady in comparison to the overall grate rate in 2019, when hearings were in person. In 2019 the grant rate was 34%; as of the middle of September the grant rate this year, including those months of video hearings, was 36.8%.

It is expected hearings will continue to be held by videoconferencing at least through the end of September, and possibly through the end of the year. The decision to continue the video hearings is made on a month-to-month basis.



FOR REAL? BUYER (LIFER) BEWARE

While the CoVid relief money for prisoners may (and we emphasize may) be real, there are some less reputable 'offers' flying through the prisons right now, two of which have been finding their way to our mailbox lately, with queries from lifers and families. Some old-timers may recognize a newer version adapted from the decades-old 'sovereign citizen' argument that was touted to those, especially newbies into CDCR, as a sure-fire way to get out. And the other, well, let's just say, we're skeptical. And so are the army of attorneys and paralegals we asked about it.

An inventive incarcerated soul, whose name and location we won't bestow recognition on, has been sending out a purported press release from out-going Sec. of Corrections Ralph Diaz, under the befuddling, sparse and uninformative heading Without One Plea. This very poorly written and presented alleged press release purports to be Diaz announcing he will not only free most prisoners, after having a sudden epiphany that he (and even the state) have no authority to keep anyone in prison, but he'll also see that each person incarcerated gets \$3,400 per day for each day they are held from July 1 (Independence Day—a coincidence?) until release. Right. Here's our response:

- If this was real, don't you think it would be all over every news source in the country, let alone the state? This is along the lines of that decades old 'sovereign citizen' scam. And how many guys do you know that got out on this? I can tell you--exactly ZERO
- Does this even look like an authentic news release? Get real. Get a clue. Get smart. If this was real, it would be on CDCR masthead, good type, a nice, clean copy and legal language. See ANY of that here? No, I didn't either.
- Ralph Diaz had nothing to do with this--he'd fall over laughing if he saw it. Really, he probably has seen it, but didn't think it important enough to even comment. BTW--that isn't even his CDCR phone number. Speaking of retirement of Diaz, y'all do know, he's only the Secretary of Corrections, not God, Governor or even a judge. He CANNOT unilaterally authorize the mass release of prisoners on his own, even if he thought it was a good idea.
- PLEASE do not buy into this sort of crap. We all want as many of you home as are ready to leave, but there's no easy way out. It takes work. Ask the over 1,000 guys who got out last year and the several hundred who have already been found suitable this year.

And lastly, many lifers are receiving unsolicited advertisements, often sent as legal mail (which, as a non-attorney, he is not entitled to do), by an enterprising former inmate, now released, operating under a business name we won't offer publicity to, offering to get your parole denial reversed in court. All the real attorneys and paralegals we know have two words here: be careful.

For a down payment of \$800 and monthly 'case maintenance' fees of \$150 (for an expected minimum of 6 months), this individual will file a writ for you challenging your parole denial. And advises you to expect action in a few weeks or months.

Again, beware. Yes, he can prepare documents for you, for YOU to file with the court under YOUR name, as he isn't an attorney (that's legal). But we question what the case maintenance fee is for, and ask yourselves, why aren't real attorneys more willing to file writs on parole denials?

Because they are almost always denied, the courts having established the parole board has 'great discretion' in making parole decisions. And writs, good ones, are very time consuming and labor-intensive to prepare. Also ask, if not yourselves, then this individual, why most of the writs he filed for himself while inside were denied, what's his success rate with writs, what does he really hope (or claim) to accomplish for you—and what does he do to earn \$150 a month to 'maintain' your case?

Again, our legal consultants advise—use caution.

CoVID RELIEF \$ FOR PRISONERS?

Well, maybe, but it's not a done deal. In March, at the start of the CoVid marathon, the US Congress passed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), providing emergency relief to eligible individuals officially via of a tax credit for 2020. The Act instructed the IRS to issue advance refunds to eligible individuals as rapidly as possible, and most Americans got \$1,200 per person.

However, IRS took the position that incarcerated individuals were not eligible for what was essentially an advance tax refund. Recently, on September 24, 2020, a federal court ruled that the IRS's position was likely unlawful (The case is Scholl v. Mnuchin, No. 4:20-cv-5309-PJH (N.D. Cal.) and ordered the IRS to stop denying payments to people solely because they are incarcerated. The court further ordered the IRS to make payments within 30 days to those who were previously denied one because they were incarcerated.

While there is bound to be more action on this, for now, it is an actual court ruling. Those who qualify must:

- Have been incarcerated since March 27, 2020
- Be a U.S. Citizen or Legal Permanent Resident;
- Not be claimed as a dependent on another person's tax return; and,
- If you are married or if you have qualifying children, your spouse and your children have a valid Social Security Number. This restriction does not apply if you or your spouse served in the Armed Forces in 2019.

While these 'deals' are usually heavily weighted on the 'scam' side of the scale, this one, at least at this point, seems based on a legitimate court decision. If this will actually come to pass remains to be seen. How to find out and, if real, claim your part of the 'free' money? Well, that will probably take some help from outside contacts with access to the internet. And, you must act by October 15. That's right, your claim has to be filed in the next two weeks.

Have your friends/family access the following 2 websites, for more information, and, just possibly, some financial remuneration. Those sites are: <https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>, to file a claim or <https://www.lieffcabraser.com/cares-act-relief/> for more information.

Will this work? Dunno. But it isn't illegal to try.