



Lifer Parole Packet

Compiled by Legal Services for Prisoners with Children

Updated January 2019

Contains:

1. **California Lifer Parole Process (Life Support Alliance)**
2. **Advice for Prisoners and their Supporters Regarding Board of Parole Hearings Psychological Evaluations (PHSS)**
3. **Overview of California's Parole Consideration Process and How to Prepare for it (UnCommon Law)**
4. **Book Report Guide and Suggested Book List (UnCommon Law)**
5. **What Happens on the Day of and During a Hearing (UnCommon Law)**
6. **How to Write a Letter of Support (UnCommon Law)**
7. **How Proposition (Marsy's Law) Impacts Lifers (UnCommon Law)**

Legal Services for Prisoners with children (LSPC) is an advocacy and referral agency only. We do not provide direct services and cannot work on your case or represent you in court. We do provide information and legal materials. We compiled much of this information from two organizations—UnCommon Law and Life Support Alliance. Their materials cover similar information but both are helpful.

If you would like information about reentry resources to develop your parole plans, please write to us and let us know the county where you plan to be released and any specific types of resources you are looking for. We can also provide information about non-violence second striker parole and parole hearings under Proposition 57 (created by the Prison Law Office).

LSPC publishes several manuals including the *Incarcerated Parents Manual*; *Transportation to Court*; *Suing a Local Public Entity*; *Fighting for Our Rights: A Toolbox for Family Advocates of California Prisoners*; *What to Plan for When You are Pregnant at CIW*; *Child Custody & Visitation Rights for Incarcerated Parents*; *Child Custody & Visitation Rights for Recently Released Parents*; and *Using Prop 47 to Reduce Convictions and Restore Rights*.

We can also provide copies of materials prepared by the Prison Law Office. Those include information in the following areas: state and federal habeas corpus, parole, and lawsuits for money damages.

The California Lifer Parole Process

This Document is copied from Life Support Alliance's Website – April 2017

LifeSupportAlliance.org

Life Support Alliance, a non-profit organization, is a gathering of friends and family members of life term prisoners working together with other responsible citizens concerned about the cost, effectiveness, and policies of the California Department of Corrections and Rehabilitation system. LSA supports the return of parole suitable lifers to our communities and is prepared to assist in their reintegration. Their mission is to assist life term prisoners in becoming suitable for parole and gaining their release, assist their families in understanding the parole process and how they can assist their inmates in becoming suitable. To continue to educate legislators and the public about the characteristics of lifers. To encourage appointment of parole commissioners who will make decisions based on law and fact, not emotion and political ideology. To support forward-thinking legislation that will protect public safety, the rights of prisoners and promote fiscal responsibility.

The California Lifer parole process is complex, heavily discretionary and very often frustrating to both prisoners and their families. Families want to be supportive and helpful but often can't understand why their prisoner isn't coming home, despite exemplary institutional behavior, letters of support and years, even decades, in prison.

THE GOOD NEWS: the two-prong battle of being granted a date by the Board of Parole Hearings (BPH), and then successfully weathering a governor's review, has now largely been reduced to a **single hurdle** of being found suitable by the BPH, as Governor Brown has clearly expressed his intention to, by in large, not intervene in parole board decisions.

THE NOT SO GOOD NEWS: it often still seems to be a roll of the dice as to whether or not that date will be granted, and if not granted, the possible length of denials can be much harsher, because of Marsy's Law

To set the stage, it is important to note that while parole grant rates are not at the level we would like to see or believe the law mandates them to be, the numbers are improving. From a dismal low of only .03% in 1995 to about 16% the first quarter of 2011 the grant rates are rising. And, with Brown staying out of the mix and more and more of former Gov. Schwarzenegger's reversals being overturned by the courts, this is the time for lifers to be ready when that window of opportunity opens for them.

There are no sure fire answers to how to be found suitable, but there are some actions both lifers and their families can do to make the chances of receiving a date from the board more favorable.

The two most important points for any lifer and their family are these:

1. Don't give up hope. Parole is possible and in more and more cases, it is happening.
2. Be realistic about the time and work needed to successfully gain a date. You probably won't get a date on your first, second or maybe even third hearing, nor can you simply stay discipline free and just do your time. There is work involved, and it's up to the lifer to get it done.

We will not, in this summary, address all the things lifers must do within the institutional process to prepare themselves for parole, such as no write-ups, self-help classes, positive chronos and the like. What we will try to offer are suggestions lifers and family members can work on in conjunction with these institutional goals and in cooperation with each other.

Legal Standards in Parole Hearings

The only standard in the law to be granted parole is to show the prisoner is not a *current danger to society*. However, the path to that finding is left largely to the "discretion" of the parole board commissioners. By in large the commissioners look to a short list of items they feel show suitability or lack thereof:

1. The life crime. Although the board, by court decision, can no longer use the crime alone as a reason for denial, nearly all denial decisions mention the "heinous" or "cold" or "cruel" nature of the crime.
2. Lack of "remorse" or "insight" into how the prisoner came to commit the crime. This finding is often based on the psychological evaluation given to all lifers.
3. Lack of sufficient self-help or rehabilitative programming.
4. Insufficient or incomplete parole plans.

These items are used, often in varying combinations, as a reason to find prisoners are still an unreasonable danger to society and thus deny parole. The courts have held that a "modicum," or smallest, of provable deficiency in any of these areas is enough for the board to be allowed to find a prisoner unsuitable. So each area must be addressed and dealt with.

Every board attorney we spoke with felt the chances of attaining a date increased with good legal representation at the hearing. There are some very good state-appointed attorneys in the system, but it is the luck of the draw for any individual lifer on which attorney is appointed to represent them at a hearing. So, if you and your family can afford to hire an attorney, strongly consider it.

Whether or not you choose to hire an attorney, do every single thing you can find and think of to show the board your suitability.

The Life Crime Details

1. Many attorneys advise their clients not to discuss the life crime at the hearing, but to stipulate to the facts on the record. There is no requirement to discuss the crime with the board. Some attorneys also feel stipulating to the facts shows the ultimate taking of responsibility and may also take much of the heat out of the District Attorney's usual anti-parole rant. Be prepared to discuss all other aspects of parole at the hearing, but avail yourself of the right not to discuss the crime.
2. If you do make the decision to discuss the life crime at the hearing, practice doing so ahead of time, so it is not unfamiliar territory on hearing day, as with most things, practice always helps.
3. Be prepared to discuss any prior criminal history or record prior to the life crime. Juvenile incidents are fair game for the hearing board and little if anything is ever really expunged from the record.

Insight, Remorse, Responsibility

1. **Insight:** the board's latest buzz word, has two parts: **contributing factors** and **responsibility**. If substance abuse or anger issues figured in the life crime you must admit to the contributing factors but stress it was not drugs/alcohol/anger that caused the crime, but your decision to indulge in these behaviors. Whatever the contributing factors, the ultimate responsibility for the crime lies with the inmate and must be accepted.
2. **Expressions of remorse or amends must be genuine.** These need to be in your own words, not stock phrases and words memorized from self-help programs or books.
3. **Letters of remorse and amends** should be written to the victim(s) and/or families, whether they are ever received or not. Send all such communications to the victims' bureau at the CDCR. They will be forwarded if appropriate. Keep copies.
4. **Write out your statement for the board**, and don't be afraid to read it. You lose no points for reading rather than memorizing the statement and reading it will insure you cover all the issues you want to in the way that you want to.

Self-help

1. If you have not already started participating in any and all self-help programs available, start now. AA and NA programs are helpful not only for substance issues but can be used by all prisoners to show serious dedication to rehabilitation. Use the 12 steps to show how you deal with issues other than substance abuse. Document your progress through the steps; try to find a sponsor, even an inmate who has already been through the steps.
2. Go beyond GED; correspondence courses, if possible, Use self-study books on all subjects, books on how to write resumes, social skills, parenting, relationship building.
3. Do book reports on books you read, but not your standard high school book report. These should be meaningful reports showing how the steps or lessons in the books relate to your situation and how you will use and apply them in your life. Books on victims' experiences and recovery can be used to understand and exhibit empathy.
4. If causative factors were present in the life crime (addictions, anger) the board will consider whether those factors are still present and will want to see how you have learned to deal with them.
5. Repair fractured relationships. Part of making amends and insight is to reach out to family and friends who may have been hurt by your past behaviors and initiate repair of those relationships. Be sure to address how the crime impacted others in your family and the community at large.
6. Consider a private psychological evaluation.

Parole Plans

1. **Employment:** While a confirmed job is not a legal requirement to be found suitable and may in fact not be attainable for some lifers, show due diligence in seeking employment.
 - a. Prepare a resume.
 - b. Show research into likely jobs in your parole area.
 - c. Letters of intent from employers are very useful, even offers of employment in your family's business.
 - d. *The board is interested in seeing you have a plan for providing yourself with the funds needed for living.*
2. Have a relapse prevention plan.
 - a. Know where and when support groups meet in your parole area, who to contact for help with emergency finances, housing, and counseling.
 - b. A sponsor from AA/NA to carry over from prison into outside life is good.
3. Have short term and long term plans; to show the board you realize reintegration is a process, not just getting out of prison.
 - a. Short term plans can include obtaining identity cards, Social Security cards, and enrolling in school.
4. Don't marry to help your parole plans, but if that event is in your plans anyway a spouse can provide evidence of a stable relationship and support on the outside.
5. Be sure your parole plans are solid and realistic. The board can and does sometimes check on letters of support and offers of assistance.

Don't allow your plans to be discounted because they are vague or not verifiable.

The Extra Effort

1. Re-read your past transcripts, with an eye to how you are perceived by the board and others. Ask family members to review them also to help you with perspective.
2. Body language is important. Read up on this, observe others and take a close look at yourself.
3. Your attorney will be the best guide on how to handle and relate to victims and/or their relatives, if they appear at your hearing (known as VNOK hearing).
4. If you are denied, begin the process of appeal right away; also begin right away to plan for your next hearing.

TASKS FOR FAMILIES AND FRIENDS

Generally

You will be your prisoner's confidant, legal aide, research assistant, material supplier and financial backer. You must be supportive, persistent, and resourceful. The most important thing you can do is maintain contact with and support and love for your prisoner. Solid family backing and support as well as assistance in developing parole plans are the best help you can give.

1. Letters of support are vital and will be addressed in a separate section. It is crucial the letters be updated for each hearing and be original, signed documents.
2. Hiring an attorney and/or psychologist for a private evaluation should be considered, if at all possible.
3. You will be the prisoner's eyes and ears on the outside, helping with finding job offers, locations of self-help rehabilitative groups (AA/NA) and when they meet.
4. Help find and provide books on self-help, correspondence education courses, even books for book reports as addressed above.
5. Help with short and long term parole plans, education enrollment, finding and securing medical assistance and any benefits the prisoner may be entitled to on release, these can include VA benefits, SS payments and documentation.
6. Check with the California Controller's unclaimed funds website; a surprising number of inmates have monies owned them being held by the Controller's unclaimed funds division. While these funds can't be sent to someone in prison, they can be accessed once a prisoner is released and can often be several hundred dollars.
7. These funds are from unclaimed checks, wages, bank accounts, insurance settlements and the like the prisoner may have been owed but not collected prior to incarceration.
8. Read transcripts with an unbiased eye and communicate your feeling to your prisoner.
9. Prisoners would do well to exude sincerity and maturity, not cockiness and attitude.
10. Contact, contact, contact. Letters, phone calls, visits are the best way of demonstrating to the board and your prisoner that you will be there to support them.

What Families Offer In Support:

1. Financial support, specific if possible as to amount and time duration
2. Help in obtaining Driver's Licenses, Social Security cards, cars, living arrangements.
3. Help in securing a job and transportation.
4. If the prisoner is eligible to be included on your health insurance policy or if an older prisoner/spouse can receive Social Security spousal benefits from your account.
5. Participation with the paroled prisoner in support groups or counseling sessions.

Support Letters

Letters of support from friends and family are a vitally important part of a prisoner's parole packet. However, these need to be carefully crafted, meet certain requirements and be sent to specific locations. This is not the time to plead to let Jimmy or Janey come home and promise they will never be in trouble again. As one parole commissioner said, this is the same family the prisoner had when he/she got in trouble, so just saying they want the prisoner home doesn't mean much in terms of rehabilitation and non-recidivism.

Try to keep letters to one page and specific as to what support you can offer and for how long you are prepared to offer that support, bullet point for clarity. Your letter should address your relationship with the prisoner, how he/she has grown as a person, what impact he/she has had on your life.

- Letters should be sent approximately 6 months prior to the parole hearing.
- They must be updated for each parole hearing, must be original documents and signed. If not signed, they will not be considered valid.
- Send all letters, as well as confirmation of other support, such as job offers, to the lifer desk at the prison housing the lifer, with copies to the prisoner, to the attorney and to the prisoner's counselor at the prison.
- Form letters, petitions or letters from those who don't really know the prisoner are of no use.
- The board will often call the letter writers to be sure they did, indeed, write the letter and know something about the inmate.
- Bogus letters are worse than no letters.

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ADVICE FOR PRISONERS AND THEIR SUPPORTERS
REGARDING BOARD OF PAROLE HEARINGS
PSYCHOLOGICAL EVALUATIONS

Including Special Advice For
Ashker Class Members

Prisoner Hunger Strike Solidarity Coalition

October 2016

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We are an all-volunteer advocacy group. We are not attorneys and do not offer legal advice or represent clients. This material offers practical suggestions to consider as you work with your parole attorney. Your attorney is the best source of legal advice for your parole. We are not mental health professionals either, and relied on other sources for the mental health information in this paper.

To the best of our knowledge, the information in this document is current as of this date. However, laws and procedures (and mental health standards) change frequently. It is your responsibility, together with your attorney, to check relevant laws, regulations and guidelines when using this material.

We would appreciate hearing from you regarding your experience with the Board of Prison Terms and FAD psychologists in using this advice and material, whether negative or positive. Our address for correspondence related to this document is PHSS Parole Committee, P.O. Box 5586, Lancaster, CA 93539. We can also be reached by email at birdsong15@twc.com.

We are a committee of volunteers with limited time and resources, but will do our best to respond to correspondence. If you are able, a self-addressed stamped envelope will help us defray expenses.

Psychological Evaluations for the Board of Parole Hearings: Support for Parole Applicants and their Supporters

This paper is provided to help California prisoners applying for parole understand the psychological evaluations conducted for the Board of Parole Hearings, and to provide advice to them and their supporters on how to counter the psychological evaluation with letters and other materials submitted to the Board.

It also includes special advice concerning some issues that arise for prisoners who were held for long periods of time in SHU for gang affiliation.

What is the FAD?

The California Board of Parole Hearings (BPH) has established the Forensic Assessment Division (FAD), a staff of psychologists who conduct psychological evaluations of prisoners for Board hearings.

What does the FAD evaluator do?

Before a prisoner goes to the Board, a psychologist for the FAD conducts an interview with the prisoner and prepares a Comprehensive Risk Assessment, or CRA, for the Board. The psychologist reviews the prisoner's criminal record, including past crimes, as well as the prisoner's record in prison, looking for the following types of information:

- Evidence of remorse for the life crime or crimes
- Positive programming like school, rehab programs, job training and job performance in prison
- Positive paperwork, like laudatory chronos, clean time and parole recommendations from staff
- Negative activities, like disciplinary infractions, gang validation or time spent in SHU
- Substance abuse and recovery efforts
- What kind of support the individual has in the community, and
- Plans for post-release housing, job, and family life.

How does the Board use the CRA?

The Board relies heavily on the FAD's report in deciding suitability for parole. The prisoner can have an outside psychologist or psychiatrist write an alternative review, but generally the Board gives more weight to the FAD review. The key focus in the FAD assessment is risk of future crime and violence. The Board generally will not parole someone with medium to high risk, so the parole applicant and his supporters need to focus their efforts and arguments on why the individual is, in fact, a low risk of future substance abuse, crime and violence.

How does the FAD measure risk?

The FAD psychologist uses two formal risk assessment tools – the Historical Clinical Risk Management 20, Version 3 (called the “HCR-20V3” in the FAD's report) and the Hare Psychopathy Checklist (the “PCL-R”). The psychologist also makes a diagnosis as to whether the prisoner has a mental disorder, such as Antisocial Personality Disorder or a substance use disorder, under the standards of the Diagnostic and Statistical Manual of Mental Disorders (the “DSM-5). The DSM-5 is the manual that mental health professionals refer to when diagnosing mental disorders in the United States.

The HCR-20V3 and the PCL-R both revolve around the concept of Antisocial Personality Disorder. They measure other things and use different ways of measuring risk, but Antisocial Personality Disorder is a central building block in each of them. The Board's Chief Psychologist has admitted these tools aren't well suited to lifers and long-term prisoners. He stated publicly that a "Medium" risk score for a lifer is more like a "Low" risk score for other prisoners. It may be useful to point this out to the Board in submitted materials.¹

What are some concerns with these risk measurement tools and concepts?

Antisocial Personality Disorder

The diagnosis of Antisocial Personality Disorder, or "ASPD," is important because the FAD psychologist and the Board weigh it as a big risk factor for future criminality. It also plays into both the PCL-R and the HCR-20V3 scores, which magnifies its effect on the overall risk score. Besides the negative effect on parole consideration, diagnosis of ASPD carries a serious stigma for an individual in the community.

The DSM-5 definition of ASPD centers on behavior that shows "a pervasive pattern of disregard for and violation of the rights of others." The diagnosis requires three or more of the following behaviors or traits:

- (1) Failure to conform to or respect laws or social norms, as indicated by repeatedly performing acts that are grounds for arrest.
- (2) Deceitfulness, as indicated by repeated lying, use of aliases, or conning others for personal profit or pleasure (e.g., to obtain money, sex or power).
- (3) Impulsivity or failure to plan ahead, as indicated by decisions made on the spur of the moment without forethought or consideration of the consequences, sudden changes of jobs, residence or relationships.
- (4) Irritability and aggressiveness, as indicated by repeated physical fights or assaults. It doesn't include aggressive acts to defend oneself or others.
- (5) Reckless disregard for the safety of self or others. It may be seen in recurrent speeding, DUIs or accidents; risky sexual behavior or substance abuse, disregard or neglect of children, and so forth.
- (6) Consistent irresponsibility, as indicated by repeated failure to maintain good work behavior or honor financial obligations. It can be seen in long periods of unemployment, frequent quitting of jobs, absences from work, or defaulting on debts, child support and other support obligations.
- (7) Lack of remorse, as indicated by being indifferent to or rationalizing having hurt, mistreated or stolen from another. The person may offer a superficial rationalization for such behavior, somehow minimize the harm that was done, or blame the victims. Failure to make amends for the harm may be an indicator.

In addition to having three or more of the above traits, a person must be over the age of 18 to be diagnosed with ASPD, and the behavior must continue into adulthood. One important requirement for a diagnosis of ASPD is that there must be evidence of "conduct disorder" in the person starting before the age of 15 years. Conduct disorder is a separate DSM-5 diagnosis that involves a "repetitive and persistent pattern" of behavior that violates social norms and rules and/or the basic rights of others. This pattern may take the form of aggression to people or animals, destruction of property, deceitfulness or theft, or serious rule violations. In preparing a risk assessment, the FAD psychologist will generally look at a prisoner's early personal history for

¹ Any issues we suggest raising or arguing to the Board should be raised in written materials submitted to the Board or through the prisoner's attorney. Opportunities for the prisoner to raise issues in the hearing are limited, and panels don't encourage or welcome it.

symptoms of this disorder. If there is nothing in a prisoner's early history to support a diagnosis of conduct disorder, there should be no diagnosis of ASPD.

The fact that a person has broken the law or is incarcerated doesn't necessarily mean that person has ASPD. The DSM-5 warns that ASPD must be distinguished from ordinary criminal behavior for personal gain, if that criminal behavior is not accompanied by the other personality traits in the definition of ASPD. The DSM-5 supports this point by providing a special code (called a "V Code") for "Adult Antisocial Behavior," where an individual exhibits certain types of antisocial behavior without the other ASPD personality traits. This is not considered a mental disorder like ASPD, but is more often a reflection of the person's history or socioeconomic status. As an example of Adult Antisocial Behavior, the DSM-5 cites the "behavior of some professional thieves, racketeers or dealers in illegal substances." This doesn't mean the behavior is not relevant to the FAD or to the Board, but it's not a mental disorder that carries the lasting stigma of ASPD.

Although criminal and rule-breaking behavior is only one aspect of ASPD, many psychologists (particularly FAD psychologists) focus on it. This is a significant problem for prisoners, and has been criticized by psychologists who believe it leads to over-diagnosis in the prison setting. The stereotype that all or most prisoners have ASPD is not supported by the research. According to some sources, when all prisoners are studied to determine the prevalence of ASPD, only 15% to 30% actually meet the criteria for it.

When psychiatrists do focus on personality traits other than criminal behavior, another problem arises. These subjective traits are often affected by the biases, background and attitude of the psychologist. A diagnosis of ASPD is frequently connected with low socioeconomic status and urban settings, and the DSM-5 expresses concern that it may be misapplied where behavior that seems like antisocial behavior is just "part of a protective survival strategy." For this reason, the DSM-5 advises psychologists to consider the social and economic context in which behavior occurs, and provides tools to help psychologists address these cultural and situational factors, including a model outline and model interview questions. It also provides V Codes to include in the psychological assessment that flag the presence of these social and cultural influences. These may include trauma, abuse or neglect in childhood; disruptive family life and relationships; poverty, homelessness and related factors; military deployment; educational problems; and notably, "imprisonment or other incarceration." There's little evidence that FAD psychiatrists use these tools and V Codes, or consider social context at all, so it's important for the prisoner and his family to address these points if they are relevant. Written materials can address family and community environment, limited educational and career opportunities, cultural expectations and other factors that may have affected the prisoner's behavior, habits and beliefs.

One of the biggest problems with the ASPD diagnosis, particularly for long-term prisoners, is the idea that this personality type is fixed for life and not amenable to change. In diagnosing ASPD, the FAD psychologists tend to focus on an individual's early life to meet the definition and then overlook change that may occur in later years. This ignores the fact that a diagnosis of ASPD under the DSM-5 requires an "enduring pattern" of antisocial traits that are "persistent" and "stable over time." It's hard to understand how these requirements can be met if the individual has not exhibited those traits for a very long period of time. Any evaluation for ASPD should consider whether these factors are present at the time of the evaluation. The idea that ASPD is a lifelong disorder is being challenged by many studies and research in criminology and psychology. The truth is that people who once evidenced antisocial traits change with age, time and positive influences.

Age is a very important consideration, and the DSM-5 recognizes it as a factor in the diagnosis. It describes ASPD as having a “chronic course,” but states that it tends to become less evident or go into remission when individuals grow older, particularly after the age of forty. While this is especially true for criminal behavior, it applies to the full spectrum of antisocial behaviors as well as substance abuse. Age has long been recognized as one of the most important factors in rehabilitation and behavioral change. Although there is some recent debate in criminology about the impact of age, it is countered by a great deal of research in forensic psychology showing that age is consistently the most meaningful factor in judging criminal or violence potential. FAD psychologists should be applying these considerations before diagnosing a prisoner with ASPD. When they don’t, it’s up to the prisoner and his supporters to clearly show changes in behavior and attitude that occur with age and time.

There are many things that *do not* indicate ASPD. Conduct that occurs only in connection with bipolar or schizophrenic episodes is not ASPD. Conduct that occurs *only* in connection with substance use does not meet the ASPD definition. In addition, the traits listed in the definition indicate ASPD *only* when they are “inflexible, maladaptive and persistent and cause significant functional impairment or subjective distress.” Traits are not maladaptive unless they lead to distress, dissatisfaction and failure, and to the most significant defining feature of personality disorders – interpersonal difficulties. How a person relates to others is a key factor of the ASPD diagnosis. A person with ASPD is rarely able to enjoy sustained, meaningful and rewarding relationships with others. This is where a prisoner’s family and friends can provide particularly helpful information.

While authorities generally say ASPD is hard to treat, studies have concluded that a form of therapy called Cognitive Behavioral Therapy is the most effective with ASPD. If the prisoner has been through CDCR’s Step Down Program, “Thinking for Change” or other programs identified in §3040.1 of Title 15, it should be raised as a positive point, because these programs are based on the model of Cognitive Behavioral Therapy.

The PCL-R:

The PCL-R predictive tool looks at a set of 20 character traits to assess antisocial or psychopathic tendencies, which are viewed as risk factors for future offending and violence. About half of the checklist traits (Factor 1 traits) focus on psychological states that are supposed to indicate “psychopathic” tendencies. These include things like “superficial charm,” “grandiose sense of self-worth,” callousness or lack of empathy, “shallow affect” and pathological lying. The rest of the checklist traits (Factor 2 traits) focus more on behavior that is closely associated with Antisocial Personality Disorder under the DSM-5. These refer more to an antisocial lifestyle with frequent criminal behavior and early delinquency, with items like “parasitic lifestyle,” poor behavioral controls, promiscuous behavior, lack of realistic goals, impulsivity, irresponsibility and poor relationships.

Although the PCL-R is one of the most widely used predictive tools, there are many problems with it. Many recent research studies have raised serious issues with the Factor 1 traits especially. They are viewed as too subjective, leading to big differences in how different psychologists score them. The background and biases of the psychologist can easily affect the results. And the Factor 1 traits are not good predictors, either – recent studies show they are *no better than chance* at predicting violent criminal behavior. As for the Factor 2 traits, many authorities don’t see any real difference between them and factors for antisocial personality disorder under the DSM-5. Overall, the PCL-R performs much worse than other commonly used predictive tools.

The developers of the HCR-20V3 – the other tool used by the FAD – have stated there’s no need to use the PCL-R test in addition to the HCR-20V3, because they both measure the same thing and the PCL-R gets the same or less reliable results. Like many predictive tools, the PCL-R is subject to racial and cultural bias – these tools become less reliable the more the subject differs from the population that was used to develop the tool. Many of these tools were developed using white male populations. Finally, because the PCL-R relies on many of the same factors as Antisocial Personality Disorder, it carries the same problems for long-term and life prisoners – that is, a failure to recognize personality and behavioral change over time.

HCR-20V3:

Like the PCL-R, the HCR-20V3 measures 20 factors to determine the risk of violence in the future. The factors are divided into three areas: Historical (10 factors), Clinical (5 factors) and Risk Management (5 factors). In a CRA, references to “H” numbers, “C” numbers and “R” numbers refer to these three different areas. These different areas look at issues in the past, issues in the present, and potential issues in the future.

1. Historical: The HCR-20V3 is weighted heavily on the side of historical factors, which include things like past violence and behavioral problems, problems with relationships, employment, substance abuse, negative childhood experiences, violent attitudes and problems with compliance. Past violence and other behavioral problems are separated by age – under 12, between 12 and 17, and over 18 – but none of the factors account for changes that occur between a person’s twenties and his forties, fifties, sixties or beyond. This part of the test can’t reflect the kind of major changes in behavior, attitude and accomplishment that occur in many prisoners during their time in prison.

2. Clinical: This part of the HCR-20V3 is supposed to measure the prisoner’s present state of mind and dynamic factors that can change over time. However, it doesn’t measure changes in the historical behavior identified above, and can’t outweigh those historical factors. So it doesn’t really work well for lifers and long-term prisoners. One very important aspect of this section concerns “Problems with Insight.” Insight is very important to the Board, and the HCR-20V3 focuses on specific insights: insight into mental disorder, insight into violent tendencies and risk factors that may trigger violence; and insight into the need for treatment. Unfortunately, many prisoners are improperly diagnosed with ASPD, and the FAD may expect them to show insight into that and into the need for treatment for it. The insight into past violent acts and the risk factors that might trigger such acts is extremely important and should be a focus for the prisoner.

The Clinical section also looks at violent attitudes and thoughts, instability, and problems with compliance or responsiveness to treatment or correction. It looks for “current symptoms” of major mental illness; but unfortunately the FAD psychologists do not seem to assess whether the prisoner shows *current* signs of Antisocial Personality Disorder, the FAD’s most common diagnosis. It’s still rooted mostly in past behavior.

3. Risk Management: The Risk Management section of the HCR-20V3 looks into the future and tries to predict, based on Historical and Clinical factors, what the risk is of re-offending or getting involved in crimes or violence after release. The primary focus of this section is on the prisoner’s plans and whether those plans will work to manage the risk of re-offending. The specific areas addressed in this section are plans for (1) professional services, (2) living situation, (3) personal support, (4) potential problems with compliance, and (5) potential problems with stress and coping.

Substance Use Disorders

These are other mental disorders that often appear in the CRA prepared for Board hearings. In the DSM-5, they are diagnosed according to the specific substance used (such as “Alcohol Use Disorder” or Opioid Use Disorder”). Psychological studies show that substance use disorders frequently appear together with Antisocial Personality Disorder. This only states what a lot of people know – that drug and alcohol misuse is often strongly associated with criminal or antisocial behavior.

Each type of use disorder has a list of criteria that measure dependence and impairment, and the psychologist is supposed to rate these over a 12-month period to determine (1) if the person can be diagnosed with the disorder at all, and (2) if so, how “severe” the disorder is. For example, if a person does not meet at least two of the criteria for Alcohol Use Disorder, the diagnosis doesn’t apply. If it does apply, then the psychologist needs to rate the severity. If someone meets 2 to 3 criteria over the 12-month period, it’s rated a mild disorder; 4 to 5 criteria indicate a moderate disorder, and 6 or more indicate a severe disorder.

In addition, the DSM-5 provides “specifiers” that can indicate whether the use disorder is in remission. If someone has not met the criteria for the use disorder for 3 to 12 months, the psychologist can specify that it’s in “early remission,” and if the criteria are not met for over 12 months, the psychologist can specify that it’s in “sustained remission.” A person can be considered in remission even if he still has cravings for the substance.

The measures of severity and remission could provide very important information to the Board, but we have not seen any evidence that the FAD psychologists use either one of them in their risk assessments. Instead, they tend to treat the use disorders as diagnoses that never change over time. This is unfair to those who have overcome the problem, either through treatment programs or on their own. The prisoner should specifically ask the psychologist to address these categories.

Some FAD psychologists mention another specifier, “in a controlled environment.” This can be negative, implying that the prisoner might not do so well outside a controlled environment. Some FAD psychologists, however, have stated that this specifier doesn’t apply because drugs are readily available in the prison environment. This is a point the parole applicant should make in the interview with the psychologist and in materials submitted to the parole panel.

What can the parole applicant and his supporters do to counter a high risk score?

If the FAD’s risk assessment concludes there is antisocial personality or a high risk for future violent crime, then the prisoner and his supporters must debunk the notion that the individual has an antisocial personality or any of the other traits and behavior indicated by the FAD’s risk assessment.

The way to push back against an unfair risk assessment is through letters from family, friends, clergy, past teachers and other supporters in the community, memos or materials submitted by the applicant personally, and if possible, outside psychological assessments. In materials from supporters and the prisoner, it is usually better not to mention antisocial personality disorder, the FAD’s formal predictive tools, or any other technical psychological terms. Rather, supporters should simply talk about the traits in the individual prisoner that are clearly the opposite of those described in these psychological definitions and concepts.

For example, to show that a prisoner is sensitive, empathic, concerned about the plight of others, supporters should talk about what they know about and have seen the prisoner do, like help younger individuals in the family or community stay away from drugs, crime and prison. Supporters might tell about what they have seen the individual do to be a great father or mother. They should remember to stick with their own experience, and the behavior and actions they have seen or know about showing the prisoner does not have the characteristics of a person with ASPD, and is not a high risk for re-offending. Here are some things to focus on in materials submitted to the Board, including the prisoner's documents and letters from outside supporters:

Personality Traits: Materials and letters should provide evidence and examples of:

- Actions and attitudes that show concern for others over one's own personal interests
- Remorse for past crimes and harmful actions
- Healthy, stable relationships without exploitation, coercion or intimidation
- Honesty, sincerity, responsibility
- Caring and empathy
- The ability to deal with anger and control impulsive behavior
- The ability to think ahead and consider the consequences of actions
- The ability to comply with rules and expectations
- Responsiveness to treatment or correction.

Materials could also describe behavior before the age of 15 demonstrating respect for rules and the rights of others, to counter the idea of "conduct disorder." Look at the criteria for ASPD (page 2 above) carefully and think about how to demonstrate that these characteristics don't fit the prisoner. During the interview with the FAD psychologist, the prisoner should try to be sincere and honest in answering questions, not try to charm or play the psych, and show that he can keep his cool even when the psych is saying or asking things that bother or embarrass him. He should mention any kind of cognitive behavioral therapy he has had, such as the Step Down program, "Thinking for Change" program or others. He should talk about how his thinking has changed.

Insight: Insight into violent tendencies and the risk factors that trigger them is one of the most important areas to focus on in preparing for a parole hearing. The prisoner should do everything possible to show understanding of past criminal or violent actions, the causes of that behavior, how to avoid those causes, and why they are no longer an issue. Any therapeutic programming, such as anger management or cognitive therapy programs, should be pointed out. If substance abuse was a problem in the past, it is especially important to show the Board what recovery programs the prisoner has done and how he or she plans to support sobriety in the community. He should ask the psychologist to provide a severity rating and address the "in remission" specifier, pointing out the absence of drug-related write-ups even though drugs are readily available in prison. The prisoner should think about possible triggers for drug use and how he has and will address them. The Board generally will want the prisoner to include specifically how he will remain sober once released from prison, such as attending Alcoholics Anonymous or NA to address this risk.

The FAD psychologist will also look for insight into a "mental disorder" and the need for treatment. In most cases, this will mean ASPD and possibly a substance use disorder. Even if the prisoner doesn't really meet the criteria for ASPD now, it may be useful to acknowledge problems in the past, and then repeatedly emphasize the changes in behavior and attitude over time, and the difference in who the prisoner is now and who he was when he came into prison.

Behavior: Since all of the FAD’s tools and approaches over-emphasize past history, it’s up to the prisoner and his supporters to fill in the blanks for the Board. Without trying to comment on criticisms or debates about these tools, they should make sure the materials submitted to the Board emphasize the things that have changed since the prisoner came to prison, how he accomplished that change, and how long it’s been since the negative acts that led to a prison term. He should list accomplishments and activities that demonstrate his stability and his compliance with rules and expectations. It is also important to address the impact of age, and the steps the prisoner has taken to reinforce the natural tendency for substance abuse, crime and violence to subside with age. It is also important for supporters to show how the individual has changed over time to become much more “pro-social,” responsible, loving, empathic, motivated to succeed, etc., and to explain why they are convinced the individual is not a risk for future substance abuse, crime or violence.

Plans. The parole applicant should do as much thinking and planning for release as he can *before* he meets with the psychologist, and make sure the psychologist understands and knows the plans he has in place. These are the same kinds of things he should have ready to present to the parole panel in his hearing. Be sure to address the following:

- 1) Professional services: substance abuse counseling or prevention services, medical or pharmaceutical services for conditions like ADHD or bipolar disorder, plans for ongoing medical care for chronic health conditions, etc.
- 2) The living situation: where the prisoner will live, how long he can live there, how he will support himself, a realistic budget, etc.
- 3) Personal support: The prisoner’s support network; letters from family and others with details about how they can support him.
- 4) Potential problems with compliance: how will the prisoner ensure compliance with parole requirements, treatment, job expectations, medications and so forth?
- 5) Potential problems with stress and coping: how will the prisoner cope with stress and difficult situations? Does he have a spiritual practice or other means of stress-reduction, anger management techniques, support groups, family and friends?

How to address some special issues for *Ashker* class members

For prisoners who spent a long time in SHU under the CDCR’s gang lock-up and debriefing policies, there are three special issues that may come up in psychological interviews and Board hearings:

1. Time in SHU
2. Refusal to Debrief
3. Participation in Hunger Strikes

1. **Time in SHU.** An individual in SHU, besides losing “good time,” is largely unable to participate in pro-social programs. In addition, SHU time traditionally meant that a prisoner engaged in bad behavior to get there. All these are negative factors to the Parole Board and to its psychologists.

To counter this, the prisoner should make clear he was not in SHU for disciplinary reasons, and that it was legally wrong for CDCR to keep prisoners in SHU for so long. By signing the settlement agreement in *Ashker*

v. Brown, the CDCR basically conceded that it was improper to keep prisoners in SHU solely based on alleged gang-affiliation or membership. It is also implicit in the settlement that Due Process was violated, and the six-year reviews were not fair. If an individual was in SHU for a long time and not able to take part in constructive programs because of CDCR's discredited policies, it is unfair for the Board to hold it against the prisoner.

The way to approach this is to show, in an alternative psych report and in letters from family friends and professionals who advocate for the individual's parole, that the prisoner did the very best he could at improving himself while consigned to the extremely harsh conditions of isolation and idleness. For example, he kept up meaningful correspondence with family and friends; read everything he could and improved his mind; learned skills by reading books from the library; took correspondence courses; did pro se legal work and had to learn law in the process; had a job as tier tender and so forth. He remained free of 115s in spite of the pressure of the environment and in spite of the fact he received no benefit for it. In other words, given the extreme restriction and control imposed in SHU, it is admirable how many pro-social things the prisoner did and how hard he worked to prepare himself for a law-abiding and constructive life after release.

2. Refusal to Debrief. This is a subject that is often raised as a negative in both parole hearings and psychological evaluations. It may be addressed very directly in the FAD interview, but is usually mentioned more subtly in the CRA, for example by reference to "failure to acknowledge gang status," or failure to "rid yourself of gang ties." This failure is seen as a risk for future violent behavior, and an indication of "a criminal mindset." In other words, a prisoner who doesn't snitch is still a criminal and gang member.

Psych reports and letters have to take on this aspect of the FAD's risk assessment. One way to address it is to point out that debriefing doesn't have any rational relation to suitability for parole, under the Board's own criteria, or to future violence risk under the FAD's criteria. For example, debriefing is not necessarily connected with any record of positive change prior to debriefing – under CDCR policies, inmates with terrible behavioral records could get out of SHU by debriefing. Debriefing is not necessarily tied to improvements in behavior after debriefing – records of behavior often remain problematic after debriefing, and SNY yards became management problems due to continuing bad behavior. Debriefing does not ensure an inmate will not engage in gang activity, since the greatest growth in new gangs is on the SNY yards. When it comes to insight, an important issue for the Board, debriefing may be inversely related to it. In some cases, debriefing is a way for a prisoner to avoid accepting responsibility and understanding past wrongs; it encourages rationalization of personal actions, and blaming others for one's own behavior. It may demonstrate a willingness to put others, including family, in danger in order to get better privileges and conditions. Because of the Department's flawed debriefing process, inmates are often incented to lie in order to successfully debrief.

On the other hand, unwillingness to debrief does not correlate with negative behavior or attitude. Many long-term SHU prisoners remained discipline-free in spite of the fact there was no incentive or reward for it, and no hope of getting out of SHU based on it. Prisoners released from SHU under the Step Down Program or *Ashker* settlement have generally had a positive impact on mainline yards, with fewer disturbances and incidents; most have committed to the Agreement to End Hostilities promoted by hunger strike leaders. These are not antisocial traits, but rather show commitment to personal change and mature attitudes. These qualities should be encouraged and valued, and indicate likelihood of success in the community.

3. Participation in Hunger Strikes. Since the hunger strikes and the settlement of *Ashker v. Brown*, many of the hunger strikers are appearing at parole hearings and finding their hunger strike participation used as a negative

factor. For example, it may be viewed as “demonstrating an ongoing willingness to disregard institution rules and engage in antisocial behavior as a means of advancing his causes or wishes....” or as evidence of gang activity and loyalty. Participation is often tied to a rule violation report, which is considered additional evidence of antisocial activity.

In such cases, it is critical that the prisoner’s participation be re-told as a peaceful and productive act that was ultimately sanctioned (the CDCR basically agreed to the prisoners’ reasonable demands by settling the *Ashker* litigation). Rather than being a rule-breaking, self-serving effort, it was a pro-social action that brought peace to the prisons and helped a lot of other prisoners. A psychologist writing an alternative report, or family and friends writing letters to support parole can respectfully disagree with the psychologist’s characterization of the hunger strike as a sign of antisocial personality and evidence of risk. Here are some points that can be made:

- 1) It was a last resort after exhausting other steps: The participants in the strikes had tried and exhausted all other means of expressing grievances, including the official grievance procedure and even appeals to elected representatives to do something about the harsh conditions of confinement in SHU.
- 2) It was peaceful: The participants agreed beforehand that the hunger strikes would remain peaceful and as little disruptive to prison routine as possible. In fact, the demands of the strikers were very reasonable – the CDCR agreed to many of them when the strikes ended and others when it settled the *Ashker v. Brown* class action lawsuit, and as a result the conditions are much improved.
- 3) It was pro-social behavior: The prisoners regretted that they had to resort to a hunger strike to have their needs addressed, but their participation absolutely did not reflect “an ongoing willingness to disregard institution rules and engage in antisocial behavior...” Rather, the hunger strike required quite a bit of planning and cooperation among participants.
- 4) It resulted in positive change: The hunger strikes and the *Ashker v. Brown* litigation actually improved conditions for very many prisoners in the CDCR. Thus, rather than interfering with institutional order, the net effect is less violence in the prisons and more order.

The same kind of positive points can be made about prisoners who participated in writing and signing an “Agreement to End Hostilities” on August 12, 2012. This is an agreement between prisoners of all races to halt violence within the CDCR. Many others have demonstrated their support of and compliance with this agreement, which has helped maintain a certain level of peace in the prisons. Thus, contrary to the way some FAD psychologists view it, participation in the hunger strikes and compliance with the Agreement to End Hostilities should be counted as “pro-social” and not “antisocial” acts.

If there was a CDCR 115 issued for participation, the prisoner should determine whether his circumstances are similar to those in *In re Gomez*, No. A142470, where a state appeals court ruled the prisoner’s participation in the hunger strike did not constitute a rule violation.

Summary

In summary, friends and family of a prisoner going to the Board need to offer reality-based support for the notion that the prisoner has done as much as he could, under the circumstances of his imprisonment, to reform himself. Based on facts that the Board would not otherwise know or be in a position to consider, supporters need to show that, contrary to the culturally insensitive and factually mistaken assumptions of the FAD’s risk assessment, the prisoner is not at all likely to return to illicit substances, to crime, and to violence.

Please Note: The information contained in this overview is not intended as legal advice in any individual's case. There are many exceptions and variations in the parole consideration process. If you have questions, please consult with an experienced parole attorney.

OVERVIEW OF CALIFORNIA'S PAROLE CONSIDERATION PROCESS & HOW TO PREPARE FOR IT

I. Consultations

A *consultation* is the first step of the parole process. It may occur five to six years prior to the person's initial parole suitability hearing. Consultations are conducted for people serving life sentences and those serving long determinate sentences if they are eligible for parole consideration, such as people who qualify for youthful parole. During a consultation, a Board of Parole Hearings (BPH) Commissioner, Deputy Commissioner, or both will review the person's activities and conduct pertinent to both parole eligibility and to the granting or withholding of post-conviction credit (when applicable). The panel will provide the person information about the parole hearing process, discuss the legal factors relevant to their suitability or unsuitability for parole, and make individualized recommendations regarding their work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the panel will issue its positive and negative findings and recommendations to the person in writing.

Prior to January 1, 2014, consultations were called *documentation hearings*. Senate Bill 260 changed the timing of this hearing. Previously, the Board met with individuals eligible for parole during the third year of their incarceration.

II. Parole Consideration Hearings

When will the first hearing be scheduled? A person's *minimum eligible parole date* (MEPD) is the earliest date they become eligible for release on parole. In general, people serving life sentences become eligible for parole once they have served the minimum term ordered by the court. However, that minimum term can be reduced by any goodtime and/or worktime credits they earn. The amount of credit (or time off the minimum term) earned is based on the type of crime and the date it was committed. The first parole consideration hearing will be scheduled to take place roughly thirteen months prior to the MEPD. However, the MEPD may change if credits are lost because of rule violations.

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New laws also allow for those sentenced to long terms, including determinate (or non-life) terms for crimes committed before they turned 26 to have advanced parole hearings. Penal Code Section 3051 outlines when *youth offender parole hearings* are due. For determinate terms, hearings are due during the 15th year of incarceration; for life sentences of less than 25 years to life, hearings are due during the 20th year of incarceration; and for life sentences of 25 years to life, hearings are due during the 25th year of incarceration. For more information on youth offender parole, contact the Prison Law Office at General Delivery, San Quentin, CA 94964, to request a copy of their Youthful Offender Parole Guide.

What if the person eligible for parole is not ready to go to their hearing? People may sometimes decide that they do not want to appear before the BPH on their scheduled date. This might be due to recent disciplinary action, not enough participation in self-help or therapy programs, or some other issue that might lead to both a denial of their parole and a long period to wait for the next hearing.

If the person eligible for parole decides not to proceed with their hearing on the scheduled date, they have three options. They should discuss any decision to reschedule their parole hearing with their attorney. They must submit a Board of Parole Hearings Form 1003 in order to remove the hearing from the calendar. There are three main ways to put off a hearing:

1. Waiver: The person eligible for parole can choose to waive their hearing for 1, 2, 3, 4, or 5 years. This means that they give up the right to have a hearing and they choose how long (up to 5 years) until the next hearing. If the BPH receives the signed Form 1003 at least 45 days before the scheduled hearing date, the waiver request will be granted. If the BPH receives it less than 45 days before the scheduled hearing, they will likely deny the request to waive the hearing and proceed with the hearing unless the person eligible for parole can show “good cause” why they did not send it sooner. If the person waives their hearing, they cannot later petition to advance it.

2. Stipulation: The person eligible for parole can offer to stipulate that they are *not* suitable for parole and request that the BPH schedule their next parole hearing in 3, 5, 7, 10 or 15 years. A stipulation is an admission that the person is unsuitable for parole and they must tell the Board why they are unsuitable. The admission that they are unsuitable and their explanation of why they are unsuitable become part of the record for the next hearing. The person may stipulate to unsuitability any time – even on the day of the parole hearing. Keep in mind that this is an offer to stipulate, which the BPH can refuse to accept. Sometimes, the BPH believes the offer does not cover a long enough period of time, in which case they may encourage a longer stipulation or insist on going through with the hearing. Unlike waivers, if the person offers to stipulate and the BPH accepts the stipulation, the person can later petition to advance their next hearing.

3. Postponement: The person eligible for parole can request a postponement of their hearing to a later date. They can make this request at any time, but the sooner they make the request, the better. The shortest period for a postponement is to the “next available” date, which is usually 4 to 6 months. The BPH only grants postponements for extraordinary circumstances; if the person thinks they need one, they should request it but there is no guarantee it will be granted.

What rights do people eligible for parole have at hearings? People eligible for parole are entitled to attend their hearings in person, to have an attorney present, to ask questions, to receive all hearing documents at least ten days in advance of the hearing, to have their cases individually considered, to receive an explanation of the reasons for the BPH’s decision, and to receive a transcript of the hearing.

Who will be at the hearing? Parties attending parole hearings include the person eligible for parole, their attorney, a BPH Commissioner (sometimes two) and Deputy Commissioner, a representative from the District Attorney’s office, two correctional officers, and the victims and/or their next of kin or representatives. People up for parole are not permitted to call witnesses or to have their family members attend, unless those family members happen to also be victims of the life crime.

What will the person eligible for parole be asked about at the hearing? The main topics discussed at parole hearings are the following: the person’s life prior to the life crime; any prior juvenile or adult criminal history; the life crime and the circumstances surrounding it; conduct (both good and bad) in prison; recent Comprehensive Risk Assessments (CRAs or psych evaluations) prepared for the BPH; and plans for release upon parole.

When discussing these topics, it is very important that the person be able to demonstrate that they have gained a clear understanding of their background prior to the life crime (including family relationships and prior criminal or juvenile record), the circumstances leading to the crime, and how they have resolved and can prevent a relapse to the circumstances that led them to violence. These circumstances may include addiction, past experiences of trauma, and other factors that contributed to the lifestyle in which the crime took place. A person’s ability to understand and discuss these factors determines whether or not the Board finds that they lack “*insight*.” If the person eligible for parole does not understand these factors, they will be denied parole, no matter how much time they have served and no matter how spotless their disciplinary record is.

Being able to explain these circumstances and factors is important because the Board’s theory is that, unless the person truly understands how they ended up in the place where such a crime could be committed, then they cannot show that it will not happen again. Set forth below are some specific areas that should be explored when approaching a parole hearing. Family members and friends can help explore these areas. These topics touch on areas that are very sensitive and can reach down to the very core of what shaped someone’s

decisions about how to live. Although some of this material may seem “touchy-feely,” exploring these issues can have a very powerful impact on the person’s relationships and on their ability to show the Board just how much they have learned and changed while incarcerated. There is also a very good chance that this material will uncover issues that the person only feels comfortable discussing within a confidential relationship with the attorney who is going to represent them in their hearing. If a person’s attorney is unwilling to explore these issues, they should re-consider whether that attorney is really helping them get ready for their parole hearing.

How can the person eligible for parole prepare for the hearing? Below, are some questions that one should be ready and able to answer in the hearing. These topics are not intended to be tackled all in one sitting, however. One should take time to consider each topic and the various factors that have shaped their life.

1. What factors in your childhood and upbringing contributed to your crime? How did those factors contribute specifically?
2. What character traits contributed to your crime and how did they contribute?
3. Have any of those same character traits contributed to misconduct in prison (including things you were never caught for)? If so, how?
4. What do you understand about the impact your actions had on the victim(s) of your crime or the victims of other misconduct, and how have you attempted to make amends to them?
5. How have you addressed the childhood and upbringing factors and character traits since you have been in prison?
6. What tools do you have now that you did not have at the time of the crime (or at the time of prison misconduct), and are there specific programs that you credit for gaining those tools?
7. What challenges do you anticipate upon being paroled?
8. How will your parole plans and support system help you address those challenges?
9. What specific patterns of behavior do you need to prevent relapse to, and how will you prevent relapsing? Include specific warning signs or triggers, as well as your coping mechanisms in response to those warning signs or triggers. Identify which of those triggers or warning signs are about people, places and things (external) and which ones are about your own thoughts, feelings and character traits (internal).

What can family and supporters do to help? A person’s family and other supporters play a significant role in their parole plans. Through their letters to the BPH, supporters can demonstrate where their loved ones are invited to live once released, where they are offered employment, where they may participate in any necessary transitional program (e.g., drug or alcohol treatment), and any other financial, emotional, or spiritual support they may need. For more information about writing letters of support, write to UnCommon Law or visit our website.

III. Comprehensive Risk Assessments (CRAs or psych evaluations)

Between four and six months prior to the parole consideration hearing, the Board will send one of its psychologists to interview the person eligible for parole, review their Central File, and write a report that attempts to predict their risk of future violence. This report is one of the most important documents the Board will use in determining whether or not the person will be granted parole. However, people too often make the mistake of not engaging an attorney or working on the areas discussed in this Guide until *after* the CRA is already written. In many cases, it is too late by then to have a significant impact on the parole hearing. This is because the psychologist is previewing the case for the Board. The person eligible for parole should review their Probation Officer's Report and any prior hearing transcripts or CRAs before meeting the psychologist.

If the psychologist finds that the person does not understand the factors that contributed to their crime or that they have not resolved some of those factors, the CRA will conclude that the person lacks insight or needs more time and therapy to work on those areas. This conclusion will almost guarantee a parole denial of at least three or five years. The denial will be longer if the person also has recent rule violations. For more information about the CRA process and challenging errors in CRAs, write to UnCommon Law or visit our website.

IV. Potential Hearing Outcomes

What happens when parole is denied? Due to the passage of Proposition 9 (Marsy's Law) in 2008, people denied parole at either an initial or subsequent hearing will have another hearing scheduled either three, five, seven, ten or fifteen years later. It is possible, however, to advance the date of a subsequent hearing through the Board's Administrative Review and Petition to Advance processes. For more information about what happens after parole is denied, write to UnCommon Law or visit our website.

What happens when parole is granted? On average, the Board grants parole in approximately twenty to thirty percent of the cases they hear. Even though the Board grants a person parole, however, it does not mean they will be released right away. This is because after the parole hearing, the case will be reviewed by the BPH's Decision Review Unit for 120 days. If they affirm the date, then the case proceeds to the Governor's Office for an additional 30 days of review. By the end of the 30 days, the Governor may either reverse the parole grant or let the decision stand, after which the person will be released. (This extra 30 days for the Governor's review does not apply in non-murder cases.)

In cases other than murder, the Governor cannot directly reverse a parole grant. Instead, the most the Governor can do is request that the full Board conduct an *en banc* review at one of the Board's monthly Executive Meetings and schedule a rescission hearing, at which the person's grant may be taken away (rescinded). In these cases, the Governor's

review must take place within 120 days following the parole hearing; no additional 30-day period applies.

If a parole grant is reversed by the Governor or rescinded by the Board, the person is placed back into the regular rotation of parole consideration hearings unless and until they are granted parole again. The next hearing will generally take place 18 months following the hearing at which parole was last granted. Some people are granted parole several times before they are finally released from prison. For more information about what happens after parole is granted, write to UnCommon Law or visit our website.

What happens when commissions cannot agree? If a hearing results in a split decision between the Commissioner and Deputy Commissioner, the case goes to the full Board at a monthly Executive Meeting. This is called an *en banc* review, and a majority vote is required for a person to be granted parole. Members of the public may attend this hearing and speak to the Board. For more information about split decisions, write to UnCommon Law or visit our website.

V. Challenging BPH Decisions in Court

At any stage of the parole consideration process, a person eligible for parole may ask a court to intervene and correct some unlawful conduct by the BPH. In cases against the Governor, courts might set aside the Governor's decision and allow the person to be released. In cases against the BPH's denial of parole, courts might order the BPH to conduct a new hearing. Over the years, many cases litigated by people in prison have helped establish the legal limits on conduct by the BPH and the Governor. Important cases include: *In re Rosenkrantz* (2002) 29 Cal.4th 616; *In re Dannenberg* (2005) 34 Cal.4th 1061; *In re Lawrence* (2008) 44 Cal.4th 1181; and *In re Shaputis* (2008) 44 Cal.4th 1241. For summaries of these and other relevant cases, write to UnCommon Law or visit our website.

VI. Life on Parole

Most life-sentenced people who are released on parole nowadays must serve a minimum of five or seven years on parole before they may be discharged. However, these parolees face a maximum of a lifetime on parole if parole authorities find that there is good cause to believe they continue to require intense parole supervision. While on parole, they must abide by specific conditions supervised by a parole agent. A former life-sentenced person who is on parole faces the possibility of a new life sentence if they are returned to prison for even a minor violation of parole.

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BOOK REPORT GUIDE & SUGGESTED BOOK LIST

This Guide is intended to help you write book reports. Book reports can be an important way to show the Board that you are thinking about and working on some aspect of yourself and/or your life crime(s). Book reports can also help you to fill gaps in the programming that is available to you at your institution. By writing a book report, you should **not** be just summarizing what you read. Instead, you should be explaining **what you learned about yourself** and your actions by reading the book.

I. Choosing a Book

First, you will need to choose a book to read. As mentioned above, a book report should show that you are thinking about some aspect of yourself and/or your life crimes(s). This may be a **character trait** (such as low self-esteem), a **characteristic of your crime** (such as domestic violence), or a **concern brought up by the Board** at your last hearing (such as substance abuse). If your institution does not have programs available that address an issue you need to work on, book reports are a good way to take initiative and work on yourself on your own. Below are some suggested books you might choose to read, organized by the topic they address. Some of these books may be available in the library, but most will need to be bought by your supporters and mailed to you from an approved seller (such as Amazon).

Anger

- *Freeing the Angry Mind*, Peter Bankart
- *The Anger Trap*, Les Carter
- *Transforming Anger*, Doc Lew Childre
- *Anger Among Angels*, William Defoore
- *Anger*, Thich Nhat Hanh
- *Healing Rage: Women Making Inner Peace Possible*, Ruth King
- *Letting Go of Anger*, Ronald & Pat Potter-Efron
- *Surprising Purpose of Anger*, Marshall Rosenberg
- *What's Making You Angry*, Marshall Rosenberg

Family/Parenting Issues

- *Houses of Healing*, Robin Casarjian
- *An Adult Child's Guide to What's Normal*, Friel & Friel
- *Toxic Parents*, Susan Forward
- *Lost Fathers*, Laraine Herring
- *Parenting from Your Heart*, Marshall Rosenberg
- *Raising Children Compassionately*, Marshall Rosenberg
- *Respectful Parents, Respectful Kids*, Marshall Rosenberg

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Forgiveness

- *I Thought We'd Never Speak Again*, Laura Davis
- *Forgiveness Is a Choice*, Robert Enright
- *Total Forgiveness*, R.T. Kendall
- *From Anger to Forgiveness*, Earnie Larsen
- *The Gift of Forgiveness*, Charles Stanley
- *Radical Forgiveness*, Colin Tipping
- *The Supernatural Power of Forgiveness*, Vallotton & Vallotton

Healthy Self & Relationships

- *Why Does He Do That?*, Lundy Bancroft
- *Codependent No More*, Melody Beattie
- *The New Codependency*, Melody Beattie
- *Personhood: The Art of Being Fully Human*, Leo Buscaglia
- *Out of the Shadows: Understanding Sexual Addiction*, Pat Carnes
- *The Verbally Abusive Relationship*, Patricia Evans
- *Women Who Love Too Much*, Robin Norwood
- *Overcoming Passive-Aggression*, Oberlin & Murphy
- *Addiction to Love*, Susan Peabody
- *Courage to Be Yourself*, Sue Patton Thoele

Sexual & Gendered Violence

- *Courage to Heal: Women Survivors of Sexual Abuse*, Ellen Bass
- *Male Brain: A Breakthrough Understanding of How Men & Boys Think*, Louann Brizendine
- *Men Who Rape*, Nicholas Groth
- *Healing Violent Men: A Model for Christian Communities*, David Livingston
- *Understanding Sexual Violence*, Diana Scully

Mindfulness

- *Peace Is Every Step*, Thich Nhat Hanh
- *The Miracle of Mindfulness*, Thich Nhat Hanh
- *The Heart of the Buddha's Teaching*, Thich Nhat Hanh
- *You Are Here*, Thich Nhat Hanh
- *Reconciliation*, Thich Nhat Hanh
- *Be Free Where You Are*, Thich Nhat Hanh
- *Being Peace*, Thich Nhat Hanh
- *Taming the Tiger Within*, Thich Nhat Hanh
- *Autobiography of a Yogi*, Paramahansa Yogananda
- *Spiritual Counsel*, Paramahansa Yogananda
- *Talks and Essays*, Paramahansa Yogananda
- *Inner Peace*, Paramahansa Yogananda
- *Living Fearlessly*, Paramahansa Yogananda
- *Where There Is Light*, Paramahansa Yogananda

Nonviolent Communication

- *Nonviolent Communication*, Marshall Rosenberg
- *Being Genuine*, Marshall Rosenberg
- *Being Me, Loving You*, Marshall Rosenberg
- *Connecting Across Differences*, Marshall Rosenberg
- *Getting Past the Pain Between Us*, Marshall Rosenberg
- *Graduating from Guilt*, Marshall Rosenberg
- *Model for Nonviolent Communication*, Marshall Rosenberg
- *Peaceful Living*, Marshall Rosenberg
- *Speak Peace in a World of Conflict*, Marshall Rosenberg
- *Urban Empathy*, Marshall Rosenberg

Substance Abuse

- *Staying Sober*, Terence Gorski et al
- *Understanding the 12 Steps*, Terence Gorski et al

II. Reading the Book

As you read the book, focus on understanding the main ideas and concepts. If it is helpful to you, take notes and write down page numbers of particularly important parts so you can go back and find them later. However, the book report should not just be a summary, so do not feel like you have to write down every part of the book. Focus on what seems to apply to you and/or your life crime(s). If there are certain parts that are particularly helpful in understanding your character traits or behaviors, you should take note of those.

III. Writing the Book Report

The first paragraph of your book report should present the book, its author, and the topic the book focuses on. Use this paragraph to introduce the book, and very briefly lay out its main ideas. In the next paragraphs, you should explain how the main ideas of the book apply to your life and/or crime(s). Here are some useful questions to think about as you write your book report:

1. What did the concept(s) in the book teach you about yourself?
2. How have you changed, and become a new person compared to who you were at the time of your life crime(s)? How did the concept(s) in the book help this transformation?
3. What did the concept(s) in the book teach you about your responsibility? Were there ways in which you were minimizing your responsibility for your actions?
4. How did the concept(s) in the book teach you how you could have avoided your crime(s)? How could you have changed your decision-making process?
5. What lessons will you take from the concept(s) in the book and apply throughout your life?
6. How did the concept(s) in the book change and/or deepen your understanding of the impact your actions had on others? How did your actions impact the victim of your crime(s)?

You do not need to answer all of these questions when thinking about any concept from the book, but starting with one may be a good way to approach writing your report. Even though the person reading your report will not have read the actual book, you should keep your summary of the book very brief so that you can focus on what you learned *about yourself*.

Finally, your conclusion should wrap up the things you learned from the book, and how it has helped you address aspects of yourself and/or your life crime(s). Focus on how

you will apply the lessons learned from the book to your life, not just to understand your past but to live a better future.

IV. Some General Tips

- **Do not minimize your responsibility for your crime(s).** While you can explain how outside circumstances may have led to your crime(s), you must take full responsibility for the decision you made and actions you took.
- **Use active language in your book report.** For example, instead of saying, “My victim was killed,” say “I killed my victim.” By making this small grammatical change, you make it clear that you take full responsibility for what you did.
- Challenge yourself to be completely honest and transparent while writing your book report.
- **Go through drafts.** Check for spelling and grammar errors. See if you can word things more clearly. If you have friends, loved ones, or supporters who would be willing to do so, have them read a draft and write notes for you.

Please Note: The information contained in this Guide is not intended as legal advice in any individual's case. There are many exceptions and variations in the parole consideration process. If you have questions, please consult with an experienced parole attorney.

WHAT HAPPENS ON THE DAY OF & DURING A HEARING?

This Guide is intended to take some of the mystery out of what happens on the day of and during a hearing. As you prepare for the hearing, keep in mind that the main purpose of the hearing is for the Board to determine whether the person before them has identified the factors that contributed to their crime and whether they have taken appropriate steps while incarcerated to make sure those factors will not contribute to another crime in the future. When the time comes, the person eligible for parole will need to explain how they have gained valuable tools through self-help in prison to make sure these issues do not lead to future violence. *If the commissioners cannot write down a couple of sincere words or phrases they hear from the person eligible for parole explaining what experiences, thoughts, feelings, or fears from their background and what character traits contributed to the crime, they will not grant parole.*

I. Before the Hearing Begins

Typically, the Board schedules two hearings a day that are set to take place at 8:30 a.m. and 11:30 a.m., though they are sometimes scheduled at 8:30 a.m., 10:30 a.m. and 1:30 p.m. While the first hearing usually starts close to the designated time, hearings scheduled later in the day are regularly delayed. For a hearing scheduled at 8:30 a.m., the person eligible for parole will likely be brought to the Board area between 7:30 a.m. and 8 a.m. They and their attorney can meet around 8 a.m. or 8:15 a.m. to go over any last-minute issues before the hearing. Unfortunately, some prisons do not provide a confidential meeting space before the hearing, so do not plan to discuss any major issues at that time. The hearing will likely start around 8:40 a.m. or 8:45 a.m. and last approximately three hours, though some hearings last much longer.

In many cases, a representative from the District Attorney's Office will be present for the hearing, and sometimes the person injured in the crime or their family members will participate, either in person or by videoconference. All of these people, along with the Commissioner and Deputy Commissioner, will already be seated when the person eligible for parole and their attorney enter the room.

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II. Starting the Hearing

Once everyone is seated, the Presiding Commissioner will address **preliminary and logistical matters**. This includes explaining the hearing process, identifying all present for the record, and determining whether the person eligible for parole has any disabilities that require accommodation during the hearing.

Additionally, the Commissioner will **confirm that the person's rights have been met**. This includes the right to meet with a correctional counselor, who notified them of their rights in the hearing and gave them an opportunity to review the Central File (*Olson Review*), as well as the right to an attorney, who advised them of hearing procedures and rights.

Next, the Commissioner will confirm that all parties have received the **65-Day Master Packet** and **Ten-Day Packet**. They will also ask if the attorney has any **preliminary objections** and whether there are any **additional documents to be submitted**.

☞ **Pro Tip:** This is the appropriate time to bring up any objections to the Comprehensive Risk Assessment (CRA) and to submit any last-minute letters of support or writings.

Sometimes, the Commissioner will ask whether the person eligible for parole will be speaking to them during the hearing, about the crime and all other issues. After confirmation from the attorney, the Commissioner will **swear them in**. Often, commissioners just swear the person in without asking whether they will be talking to them.

Before beginning to ask questions, the Commissioner will **adopt a version of the facts of the case**. They might use the Probation Officer's Report, the Court of Appeal Opinion affirming the conviction, or the version of events set forth in the CRA. The Commissioner will either read these facts and statements into the record or state they are incorporating those documents "by reference."

III. The Board's Questions

Most of the questions during the hearing will be directed to the person being considered for parole, rather than to the attorney. Usually, the Commissioner begins by asking about **pre-conviction factors**. This includes questions about family, upbringing, school, violence, gangs, substance or alcohol abuse, and divorce or separation between parents. To guide the conversation, the Commissioner relies on what is written in the most recent CRA about these topics, and the person eligible for parole and/or their attorney should be prepared to correct any errors. The Commissioner will also ask about prior juvenile and/or adult arrests or convictions. They may also ask if the person eligible for parole has ever committed crimes for which they were never arrested. It generally does not hurt to admit

these things at this point, as long as they were not crimes that could potentially carry a lengthy sentence if convicted.

Next, the Board will review **case factors specific to the crime**. The Commissioner might ask if there is anything to add to the version of the crime they have adopted, or they might ask specific questions about information in the file. Many Commissioners, however, will ask the person eligible for parole to describe the circumstances surrounding the crime. Whichever way they bring it up, the person eligible for parole should be prepared to tell the story of what happened. Commissioners may also attempt to nail down the specific factors that contributed to or caused the crime. They will either ask the person eligible for parole to identify those factors, or they will ask the person eligible for parole to explain *why* the crime happened. Some Commissioners will just ask for “insight.” **Again: *If the Commissioners cannot write down a couple of sentences they hear from the person eligible for parole explaining what experiences, thoughts, feelings, fears or character traits from their background led to the crime, they will not grant parole.***

Following the discussion of pre-conviction factors, the Board will ask about **post-conviction factors**. This includes work, educational and vocational assignments, disciplinary record, self-help and therapy programs while in prison. The attorney must be familiar with their client’s prison record so that they can ensure the Board does not overlook any achievements.

In this portion of the hearing, the Board will also review **parole plans**. This includes housing arrangements, employment opportunities, continued self-help programming, and letters of support. If the person eligible for parole does not have a firm job offer, they should be prepared to discuss how they will use vocational skills they have obtained. While the Board generally prefers for people to be released into a transitional program, this is not a requirement, especially if the person does not have a history of drug or alcohol abuse. Even if they do have a transitional program offering residence, they should explain where they will live after the six months to a year they are in that program.

Throughout the Board’s questioning, remember that **this is the person eligible for parole’s hearing and their opportunity to tell their story**. They should avoid simple “yes” or “no” answers and take the time to explain – at the right time – how they have changed during their incarceration. The qualifier *at the right time* simply means that they should not skip past a painful or embarrassing discussion of things from the past in favor of focusing on how much they have changed. Instead, the Board is most concerned about their ability to talk honestly and openly about experiences from the past.

☞ **Pro Tip:** At the conclusion of the Board’s questions, typically after discussing parole plans or the CRA, the attorney should consider **requesting a recess** (unless there has recently been one) to review issues likely to be raised in questions from the District Attorney or the parole attorney.

☞ **Pro Tip:** Throughout the hearing, the person eligible for parole and their attorney will have a chance to talk during any recesses that are called (either for a restroom break, for deliberations or for any other reason).

IV. Questioning by Attorneys

Once the Board has completed its questioning, **the DA's representative has an opportunity to ask questions** and clarify matters for the record. The DA will direct their question to the panel, and the commissioners decide whether to pose the question to the person eligible for parole. Clients should remember to pause after the DA asks each question, because the panel may either re-phrase the question, decide not to have them answer the question, or answer the question themselves based on what they have read or on the person's testimony earlier in the hearing. The attorney might also object to the question, answer it him or herself, or advise the client not to answer the question.

Once the DA is finished asking questions, **the attorney for the person eligible for parole will have an opportunity to ask questions.** The attorney should use this time to come back to any questions that may have given the client trouble earlier in the hearing that they were not able to address during questioning by the Board or the DA. The attorney should also have a short list of issues they know the client needs to discuss in order to demonstrate remorse, acceptance of responsibility, and insight into the crime. If any of those issues has not yet been addressed, they should be asked about at this time. There should not be any surprise questions for the client.

V. Closing Statements

After questioning, **the DA will make a closing statement.** They will likely focus on the life crime and any prior attempts to avoid responsibility. In addition, the DA will highlight any concerning statements in the CRA or hearing testimony in an effort to connect the historical factors surrounding the crime to some current evidence of dangerousness. Attorneys should advise their clients not to react visibly or verbally to what the DA says.

After the DA's closing statement, **the attorney for the person eligible for parole will get a chance to make a closing statement,** which should take no more than ten minutes (some commissioners strictly enforce a time limit). Remind the Board what they just heard and saw from the person eligible for parole, addressing any concerns raised by prior commissioners or in the CRA. Although the attorney should have already outlined their argument, they will also need to be prepared to respond to things that have come up during the hearing. For example, they might need to clarify statements made by the client, or provide documentary support to resolve a disputed issue that came up in the hearing. In addition, they will need to refute allegations made by the DA in their closing.

Next, **the person eligible for parole has the opportunity to make a closing statement.** The closing statement should be limited to expressing remorse for the harm they caused the victim and victim's family. It is normal for people to read a statement they previously prepared because it helps them stay focused and speak clearly. The closing statement should not respond to anything the DA has said during his or her questions or closing. That is the attorney's job and responsibility.

If **the person harmed by the crime or their representative** is present, they will be given an opportunity to talk to the Board about the impact of the crime and whether they think the person eligible for parole should remain in prison. The person eligible for parole and their attorney cannot make any further statements or objections after the victims/representatives have finished speaking. While attorneys are not permitted to object to (or interrupt) the victim's statements, they may need to find a way to raise objections with the DA and the Commissioners during a break in the proceedings.

VI. Deliberation and Decision

After closing statements, the Commissioners will clear everyone else from the room while they deliberate on whether to grant or deny parole. Deliberation generally takes between 20 minutes and an hour. Once they finish deliberating, they will call everyone back in to read their decision. They will either grant parole or deny parole, directing the next hearing to be held either 3, 5, 7, 10 or 15 years later.

VII. Post-Decision

The person eligible for parole and their attorney will have a few minutes after the decision to discuss next steps, whether the decision is to grant or deny parole.

If parole is denied, options to challenge the decision include pursuing informal relief through the Board's Decision Review process (a type of informal appeal); pursuing formal relief from court (using a petition for writ of habeas corpus); or focusing on addressing the Board's stated concerns in preparation for the next parole hearing.

After approximately 30 days, a full transcript from the hearing will be sent to the person eligible for parole. At that time, the transcript will also be made available to the public upon request through the Board's website.

For more detailed information for what happens after parole is granted or denied, write to UnCommon Law or visit our website.

Please Note: The information contained in this Guide is not intended as legal advice in any individual's case. There are many exceptions and variations in the parole consideration process. If you have questions, please consult with an experienced parole attorney.

HOW TO WRITE A LETTER OF SUPPORT

This Guide is intended to help you draft a strong letter of support. Letters of support are an important part of the documentation the person you support will provide to the Board in advance of or during their parole consideration hearing.

I. Purpose & Types of Letters of Support

Your letter will show the Board that the person you support has a strong support network. Even if you are far away, your support is important, as it shows the Board that they have positive people in their life. There are three main types of support letters: (1) Parole Plans; (2) General Support; and (3) Testimonial. Each type is discussed below.

Parole Plans: A parole plans letter is one that outlines a specific offer of assistance – residence, employment, transportation, counseling, mentorship, etc. If you are offering any of these types of support, do not hide or bury this information in the letter because this is the most important part of the letter. The information you provide about your offer should be as specific as possible. If you are offering a place to live, state where it is, how many rooms are available, and who else is living there. If you are offering a job, describe where it is, what they will be doing in that job, and what the starting pay is.

If the person you support struggled with substance use at the time of the life crime, the letter might also identify places nearby where treatment can be obtained, including the locations of A.A. and/or N.A. meetings and mental health care providers. This information is critical for showing the Board where the person you support would seek this type of assistance once out on parole.

General Support: A general support letter is one that offers general support, including financial support, emotional and spiritual support, or connections to necessary services or resources in the community. If you are offering financial or emotional support, be specific and explain how you will provide that. For example, you will send a monthly check for \$100; you will call every week; you will attend 12 Step meetings or church together, etc. If you are offering to connect the person you support with other services or resources, be as specific as you can about what those services or resources are, and how you will do that.

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Testimonial: A testimonial letter is one that comes from someone familiar with the case over a long period of time, but this is generally not a family member and/or friend. Typical writers of testimonial letters include the defense attorney, judge or prosecutor at the time of trial, investigating officers, or jurors. These letters, unlike parole plans or general support letters, may be able to explain the parole candidate's role in the life crime without appearing overly biased in the individual's favor. Many times, the people involved at the time of trial did not expect the individual to remain in prison decades later, and many times they will explain why the individual has done enough time for his or her role in the crime. Since some of these letters will be from the same part of the community as the Board, their input may be very influential.

Testimonial letters may also come from within the prison community. Educational or vocational instructors, volunteers in self-help and therapy programs, work supervisors, and other people in prison who have been helped by the person seeking parole offer some of the best current evidence of how an individual gets along with others and how he or she approaches his or her responsibilities. Many times, these people have had the opportunity to observe a particular individual over a long period of time and can either talk about positive changes they have observed or discuss the individual's consistently positive conduct throughout a variety of situations. These letters can also help minimize the impact of negative information, such as 115s or 128s, either by providing important background information or by explaining how the individual has changed in the period since those write-ups occurred.

II. What to Include in Your Letter & Where to Send It

Regardless of the type of letter that you are providing, below are some guidelines on the information that you should include in your letter, how to format and address it, and where and when to send it.

What to Include in Your Letter

- At the top of the letter, include the date, your full name, and contact information (address, phone, and email). You can also add a title: "Letter of Support for [Full Name] [CDC Number]."
- Open with "Dear Commissioners" or "To the Board of Parole Hearings."
- State who you are and how you are related to the person for whom you are writing the letter. If you have stayed in contact over the years, it is helpful to say that.
- Briefly explain your personal knowledge of how the person for whom you are writing the letter has positively changed during their incarceration, and why you believe they are ready to be released.
- At the end of your letter, please write your full name and sign it.

What *Not* to Include in Your Letter

- Do not say anything to suggest that the crime was not serious, or that the person for whom you are writing had only limited or accidental involvement, or that they are serving too much time. Do not refer to the crime as a “mistake.” Do not state that the person for whom you are writing has always been a “model prisoner,” especially if that has not always been true. The Board tends to give little weight to such statements when made by supporters, and may even react negatively if the person’s prison record has not been consistently positive.
- Do not say anything that sounds like you are directing the Board how to do their job. Instead, focus on helping them see how much you care about the person for whom you are writing the letter, the positive things you personally know about them, and how you will provide support.

When and Where to Send Your Support Letter

People preparing to go to the Board should start gathering support letters once they know their hearing will be scheduled within 8 or 10 months. Ideally, your letter of support should be dated no earlier than 6 to 8 months in advance of the hearing. If you have written a letter of support for a prior hearing, you should either write an updated version or a short letter to say that your support (or offer) from the prior letter (specify the prior date) is still valid. While the content of the letter can be the same, submitting an update shows the Board that the support you previously offered remains current and reliable.

No matter the date of your letter, you should send your letter to the Board (Board of Parole Hearings, Post Office Box 4036, Sacramento, CA 95812-4036), to the person you support, and to their attorney. At the very least, the person you are supporting should keep a copy of all the letters because, too often, no one else has copies at the time of the hearing. Late letters that get to the individual or their attorney on the eve of the hearing can also be provided to the Board at the time of the hearing. However, sending a letter in advance of the hearing creates a higher likelihood that the Board will have received and read the letter in advance.

HOW PROPOSITION 9 (MARSY'S LAW) IMPACTS LIFERS

1. Dramatically increases the maximum period of a parole denial to *fifteen* years from two years for prisoners convicted of crimes other than murder, and from five years for those convicted of murder;
2. Requires that the maximum 15-year denial period also be the *default* denial period in all cases, even for those with minimum prison terms of only seven years (i.e., most cases not involving murder).
3. Replaces the *minimum* denial period of one year with a minimum period of three years, eliminating the Board's ability to deny parole for only one or two years – the options previously chosen by the Board in 72% of all parole denials before Proposition 9.
4. Creates new hurdles the Board's commissioners must overcome (i.e., finding "clear and convincing evidence") to justify a denial period shorter than fifteen years. In fact, the denial period is now determined through a process of *decreasing* lengths from fifteen years to ten, seven, five, and then three years. Under the prior law, the denial period was reached through a process of *increasing* lengths from one year to five years – and even then only in exceptional circumstances.
5. Drastically reduces the availability of an earlier review following a lengthy denial period. Rather than an automatic review after three years, there is now an optional review that is only available if the prisoner makes a request (available only once every three years) and establishes changed circumstances or new information.
6. Requires 90 days' advance notice instead of 30 days' advance notice of parole hearings be provided to victims, their next of kin and other representatives.
7. Substantially expands the number and definition of victims, their relatives and designated representatives who can attend parole hearings and provide unsworn testimony during which they cannot be interrupted or questioned by prisoners or their attorneys.
8. Allows victim-related attendees to make statements on the record regarding matters completely unrelated to the prisoner's current risk to public safety.
9. Specifically excludes anyone who is currently incarcerated from the definition of victims or their representatives who may now attend parole hearings.
10. Requires that copies of the unchallengeable victim/representative statements be considered at all future parole hearings.
11. Eliminates prisoners' access to rehabilitation programs that are not specifically required by the United States Constitution or by the laws of the State of California – indeed, the very programs in which prisoners participate in order to rehabilitate themselves.
12. Prohibits any expedited release programs to relieve the unconstitutionally overcrowded conditions in California's prisons.
13. Requires all of the above-mentioned changes to apply to prisoners sentenced both before and after Proposition 9 passed.

A complete copy of Proposition 9 and the changes in Penal Code sections 3041.5 and 3043 can be obtained from www.theuncommonlaw.com)