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Edition

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Bridges to Freedom

Living Skills Practice for the Parole Minded

**Community Reentry
Living Skills Guide**

Bridges to freedom

Community Reentry Living Skills Guide

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By James L. DeBacco
Bridges to Freedom, Inc.

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Bridges to Freedom

“Affirmation of Self-Belief”

I believe change is possible, and I am willing to put my remorse into action.

I believe that I have a debt to society, and I am committed to my positive change.

I believe I can confront the negative images of my past, and I will work to unlock the insight into my behavior choices.

I believe that I need to examine my self-portrait reflection, and I acknowledge my actions have caused suffering and loss.

I believe that before I can truly change, I need to understand the value of compassion towards my victims.

I believe that with self-sacrifice, I can give up my negative thoughts, attitudes and behavior, and find purpose in crossing over the bridges to freedom.

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Bridges to Freedom

In writing the Fourth edition of *Bridges to Freedom*, I am mindful of the men and women who have shared with me the portrait of their lives. From the many comments inside and the feedback received at the <http://bridgestofreedom.wordpress.com> blog, I have reached a point in crossing over my own bridges to freedom that has allowed me to find peace and balance – even in my own defeats with the Board. While the challenge to be found suitable for parole is great, a greater challenge lies in remaining free from restraint once we do parole. The Fourth edition is written for the incarcerated man or woman who understands the value of working hard to build life skills. In putting to practice the lessons offered in *Bridges to Freedom*, each man and/or woman parole candidate will learn the importance of having discipline, and be able to learn and achieve a greater sense of purpose - leading to a successful life.

The principles of *Bridges to Freedom* remain the same. The Fourth edition contributes updated and revised lessons, strategies, key points and thoughts for a more concise understanding. *Bridges to Freedom* will always be a source of information that helps the parole candidate cultivate living wellness skills in preparation for the ultimate goal: Parole. It has been my profound pleasure to listen to your stories, share in your thoughts and grow from your wisdom. This book is because of you. I hope that *Bridges to Freedom* offers each of you the tools available to believe in yourself and the rewarding experience gained from putting your remorse into action. The Fourth edition has been revised with the latest changes in preparing for the parole suitability hearing and community reentry. I continue to wish you all great success as you journey over the new and improved *Bridges to Freedom*.

James L. DeBacco

Disclaimer

No express or implied warranty of any kind is created by the *Bridges to Freedom* book. Readers are advised to consult with an attorney before applying the steps described in this book. The text does not guarantee any person following the steps outlined inside will be granted a parole date at a parole suitability hearing. The opinions, suggestions, and recommendations expressed in the book are not intended to apply to any specific case, individual, or situation. Each of the case citations is different and must be evaluated on the totality of its unique facts and circumstances. All, some, or none of the above opinions, suggestions and recommendations may apply to any case. Readers should consider the above opinions, suggestions and recommendations for informational purposes only and should not rely on anything stated in this book until further consultation with, and verification by, competent legal counsel.

Acknowledgements

While the path to crossing over my bridges to freedom has been long, challenging, and rewarding, I have never lost sight of the many people who have supported me on the journey. I would like to express my continued gratitude for all the contributions that have been made by the men and women who have made the decision to put their remorse into action. The purpose of this book is because of you. A special thank you to Gilbert Jauregui, whose empathetic service, is a true testament to the nature of believing that the darkness can always be turned to light. To the many prisoner support and prisoner reform organizations (i.e., Geri Silva, *Fair Chance Project*, Vanessa Nelson, *LSA/CLN*, Sister Mary Sean, *PREP*, Barbara Brooks, *SJRA*, and the countless number of attorneys i.e., Benjamin Ramos, Michael E. Beckman, and the countless number of volunteers and staff who are dedicated and support prisoner rehabilitation and reform. To my family – Al, Ellen, my mother and all the extended members of my U.S. and Australian family, I have always kept you in my heart and have relied on the love you have shown me to continue the journey to freedom. My present and past friends who have listened to my rambles, ideas, and have patiently offered constructive criticism. To Robert Hoffstot who put up with me during the long days and even longer nights cultivating the emotional me. To Dorian, who created the magnificent Bridges to Freedom blog art. To the Fusco family, never give up hope. To Barbara Sachs, I will always be indebted to you for offering me insight into editing this book. To my friends Robert Hernandez and Steve Castillo, your commitment to helping others merits this recognition. To my friends Geno and Eddie – Congratulations on receiving a parole date. You are a beacon of hope in the eyes and hearts of us all. Finally, to all the people who opened up their hearts and lives to me. Thank you for the portraits of your experiences and encouraging me with your wisdom and support. You know who you are.

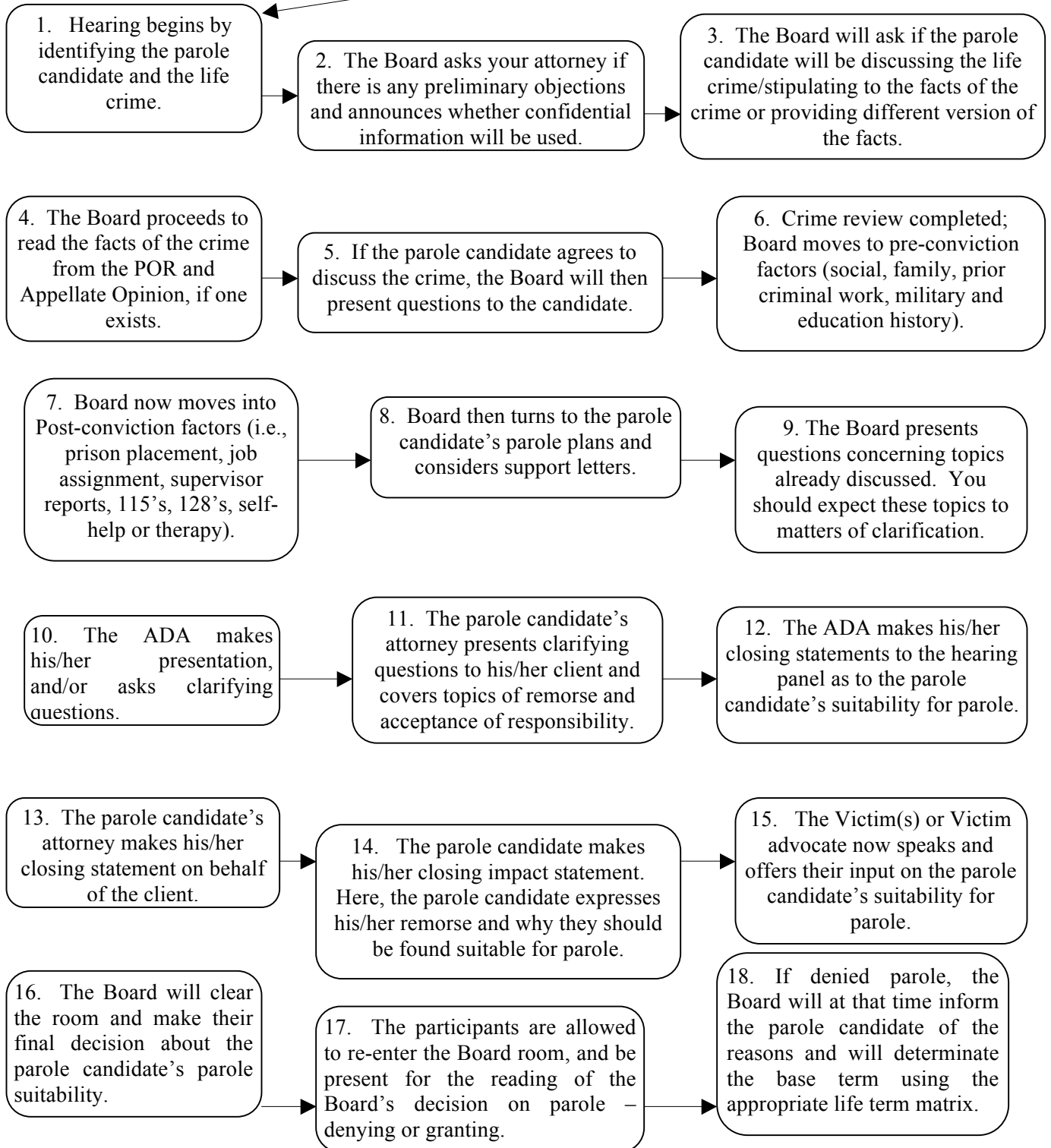
Dedication

*For my wife, Kim – The most brilliant Bodhisattva I know.
Thank you for the beautiful infinity Cedar tree.
You are a portrait of pure joy...lol*

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THE PAROLE SUITABILITY HEARING SCHEDULE



Chapter One

The Journey Begins

Introduction

There have been many parole candidates before me, and like them, I was clueless about my rights when appearing for a parole consideration hearing (also characterized as the “Parole Suitability Hearing.”) My only knowledge was that I vaguely believed I had a right to legal representation, but was not really sure. I found myself listening to other parole candidates who had appeared at parole board hearings, or knew of someone who had attended and were not found suitable for parole. For the most part, I really did not know what to expect of the parole board hearing process; so the questions became: “*What is the Board of Parole Hearings,*” “*Do I have rights and, if so, what rights do I have?*” and “*What can be expected once the parole suitability hearing process begins?*” In answering these questions, you may be surprised to learn that all parole candidates have a multitude of rights. Some of the rights are easily recognizable; others may be difficult to interpret – leaving a sense of challenged frustration for the parole candidate to experience.

In the quest to find answers to my own questions, I have learned that there are many visible and unseen mechanics that come into play. In this book, you will learn that preparing for the suitability hearing is only one part to the overall picture to achieving re-entry freedom. As you read this book, you will discover the origin and historical background that provides a generalized overview of the Board of Parole Hearings (BPH). At all times, I provide you with information from the prisoner’s point of view and understanding. I am not an attorney, doctor, or expert in the fields of psychology or criminology. My intention is to provide a common sense breakdown that will inform and aid the approaching parole candidate, with understanding the nature and purpose of the Board of Parole Hearings process. I hope each parole candidate will learn and apply the valuable lessons taught in this book in their effort to prepare for the individual challenge of regaining the privilege of restoring their lost freedoms.

Each person who reads this book will discover and learn that the governing criteria and guidelines for the life term parole candidate, who falls under the Indeterminate Sentencing Laws (ISL) category, is found in the California Code of Regulations, Title 15, Division 2. The sections that this book will cover, is identified as the Parole Consideration Criteria and Guidelines for Life Prisoners.” ***Note: For the purpose of brevity and instruction, references to the California Code of Regulations, Title 15, Division 2, generally will not be cited. Most of the references to the given source information will be briefly highlighted with a notation to the origin of the source material. Full citations will eliminate redundancy. Any questions concerning source information should be referred to your attorney or inmate legal assistant.***

Remember, not knowing the nature of the criteria and guidelines that control the process of the parole suitability hearing, is just as ineffective as representing yourself in a criminal trial and having no knowledge of the laws governing a formal judicial examination of evidence and determination of legal claims in an adversary proceeding. In simple language, you don’t have to be a lawyer or have a higher education to know the process and expectations of the Board, as you will learn in this chapter and through out this book. You simply must be willing to apply yourself and be able to recognize the basic concepts that

will assist your understanding of what expectations are followed and reviewed by the Board in the Lifer hearing process.

The California Prison Parole Scheme

The California Board of Parole Hearings (“Board”) has “the power to allow prisoners imprisoned in the state prisons ... to go to parole outside the prison walls and enclosures. California prisoners who are serving sentences of life with the possibility of parole are not eligible for parole until they have served the greater of a term of seven years or “[a] term as established pursuant to any other provision of law that establishes a minimum period of confinement. The Board is required to conduct a prisoner’s first parole hearing one year prior to the prisoner’s minimum eligible parole release date.

The panel’s fundamental consideration in parole decisions is public safety. (See *In re Lawrence*, 44 Cal.4th 1181). “[T]he core determination of ‘public safety’ ... involves an assessment of an inmate’s *current* dangerousness.” The Governor may review and affirm, modify, or reverse a panel’s suitability determination. (See Cal. Const. art. V, § 8(b); Cal. Penal Code § 3041.2. But, the Governor’s review must be based on the same factors the Board is required to consider. If the panel determines that the prisoner is unsuitable for parole at the time of the hearing, the panel must set the date for the prisoner’s next parole hearing. At the next hearing, a panel determines whether intervening changes have rendered the prisoner suitable for parole.

The History of the Board of Parole Hearings

On May 10, 2005, the Legislature enacted Senate Bill 737 as urgency legislation. It took effect July 1, 2005, and implemented the Governor’s reorganization of state government. The primary effect of this legislation is that the old Department of Corrections and Board of Prison Terms ceased to exist and became reorganized as part of the new Department of Corrections and Rehabilitation. With the 2005 legislation, the legislation created that any reference to the Department of Corrections in any California code would now be referenced to the Department of Corrections and Rehabilitation, Division of Adult Operations. The legislation also provided that any references to the Board of Prison Terms in any California code would further be referenced to the Board of Parole Hearings.

The Board of Parole Hearings

The Board of Parole Hearings was approved to consist of 17 commissioners, including the chair, appointed by the Governor and subject to confirmation by the Senate to individual, staggered three-year terms. Of the 17 commissioners, 12 are appointed and trained to hear only adult matters, and five are appointed and trained to hear only juvenile matters. The 12 commissioners hearing adult matters hear the parole suitability hearings for lifers. The Chair of the Board is designated by the Governor. The Governor may also appoint an Executive Officer, subject to confirmation, who shall be the administrative head of the Board. The BPH is augmented by deputy commissioners who are civil employees.

Responsibilities of the Board of Parole Hearings

The Board of Parole Hearings has all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the old Board of Prison Terms and Youth Authority Board. Rather than have a separate Department of Corrections and separate Board of Prison Terms, the new law mandated that these functions be part of the same agency and operate as separate divisions within it. As a result, the law established the Department of Corrections and Rehabilitation.

Suitability Hearing Panel

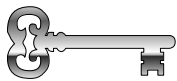
The composition of a lifer panel, which conducts the suitability hearing, depends on whether there exists a backlog of inmates awaiting hearings. When a backlog exists, a panel of two commissioners, or one commissioner and a deputy commissioner (this scenario is more common), may hold the hearing. No

more than one of the two board members may be a deputy commissioner. During the time when the backlog is eliminated, it is the intent of the Legislature that hearings be held by a panel of three or more members, the majority, of who must be commissioners. (Penal Code § 3041(d).) The laws, regulations, and rules of the BPH establish that, after considering all reliable information and public input, an inmate is to be denied parole by the panel if the evidence establishes that the inmate's release would pose an unreasonable risk to public safety. (Cal. Code Regs., tit. 15 § 2281(1).)

A Nuts & Bolts Breakdown of the Suitability Hearing

As indicated above, regardless of the amount of time served, a parole candidate shall be found unsuitable for, and denied parole if, in the judgment of the panel, the “prisoner will pose an **unreasonable risk of danger** to society if released from prison.” The decision to deny parole is subject to judicial review to ensure that the decisions comports with due process of law. The review is usually by way of habeas corpus. The standard the reviewing court uses is whether there was “some evidence” in the record before the Board to support the decision to deny parole. While the “some evidence” standard is “extremely deferential” (respected), examples of appellate opinions have been more critical of parole denials. “The overriding statutory concern for public safety in the individual case **trumps** expectancy the parole candidate may have in a term of comparative equality with those served by other offenders.” An indeterminate life sentence is, in essence a sentence to a maximum possible, subject only to the ameliorative (acceptable) power of the parole authority to set a lesser term.

Every indeterminate sentence is for the statutory maximum unless the parole authority acts to set a shorter term. The parole authority (Board) acts just as validly by considering the case and declining to reduce the term as by entering an order to reduce it. The Board can use the offense alone as a basis for denial so long as it can point to circumstances beyond those necessary to establish minimum elements of the offense that demonstrate a danger to public safety, and those findings are supported by “some evidence.” In past, the setting of base terms did not come into play unless the parole candidate was first found suitable for parole. As of recent, the California Board of Parole Hearings and life prisoner Roy Butler entered into a settlement agreement on December 16, 2013, as mentored by the First District California Court of Appeal, Div. 2 (“1st DCA”), wherein the Board agreed to fix terms for all lifers at their initial parole suitability hearings.



Key Point to Consider: *The Focus is on parole suitability. The Assistant District Attorney (ADA) will advocate that a dangerous life prisoner remains incarcerated, by explaining to the Board panel why the parole candidate still represents an unreasonable risk of danger to society if released. The ADA has the option to use the two most important tools to assist them in their arguments: photographs depicting the commitment offense and any victim impact evidence they may have. (live statements, video- or audio- taped statements, or letters).*

Hearing Procedures

The hearing consists of three primary parts:

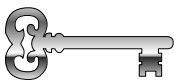
1. The Commitment Offense;
2. Institutional adjustment, including psychiatric factors;
3. Parole plans and Penal Code section 3042 notices and responses, other letters.

Each of the panel members takes a different part of the hearing. The Chairperson (commissioner) of the hearing takes the first part. After the other members (or member) complete their part(s) they return the hearing to the Chair. The first phase of the hearing focuses on a discussion of the offense wherein the commissioner will summarize a Board report. This usually contains a factual summary of the crime that is based on the original probation report used at sentencing and the Court of Appeal Opinion. At this point, it

doesn't make a difference if the hearing is an initial or subsequent hearing. On initial hearing, the panel will engage the parole candidate in an in-depth discussion. Here the parole candidate can expect to be hit with hard questions regarding his/her life crime. If the parole candidate refuses to discuss the offense, or claims it "wasn't me," or "it was accidental," or makes a claim of self-defense, or otherwise minimizes his/her involvement, it will probably not bode well for the parole candidate and cost him/her a date at the hearing. ***The key factor is whether the parole candidate has any insight into what caused the offense and whether such insight is a good indication that the criminal behavior will not be repeated.*** (See Chapter 3 for further reading on "insight"). Generally, if it is a subsequent hearing, the questioning will be briefer, and the Board will incorporate the record of the prior statement of facts from prior hearings in the record.

During the hearing, *the ADA has the opportunity to ask questions about the offense but only through the panel.* The rationale for this procedure is that the hearings are non-adversarial in nature. If the panel feels the questions warrant answers, they will ask the parole candidate to answer them. This is done at the conclusion of the hearing just before the deputy district attorneys final summation is given. After discussing the offense, the panel moves into prior criminal behavior before the offense. After this, the hearing is returned to the Commissioner for phase two.

In phase two, a different panel member (usually the deputy commissioner) discusses the parole candidate's adjustment while in prison. When this segment is over, the panel goes into the psychiatric evaluation and mental status of the parole candidate (the psychiatric evaluation and mental status of the parole candidate is discussed more thoroughly in Chapter 6).



Key Point to Consider: *"The panel members are taught that it is virtually impossible to predict future dangerousness. Panel members are of the mindset that Psychological Risk Assessment reports typically fail to go into any real depth and are often slanted in the prisoner's favor. Thus, a good report not totally supportive of release supplies the panel with additional reasons to find the prisoner unsuitable ..."* This is characterized by the California District Attorney's Association, in their *Lifer Hearings Manual* (See *Lifer Hearings* (2007) *Prosecutor's Notebook Volume XXXIV*).

The hearing is then turned back to the commissioner for phase three. In this phase, the deputy commissioner asks more questions of the parole candidate and discusses parole plans. This is usually the shortest part of the hearing. The panel is looking to see if the parole candidate has a verifiable offer of employment in the file. ***Note: Absence of such an offer will usually be a roadblock to receiving a parole date.*** At the conclusion of this phase, the panel may ask more questions of the parole candidate about any matters covered in the three phases and may ask the ADA if he or she has any questions to be directed to the panel. The parole candidate's attorney is also given an opportunity to ask questions. The panel then allows the ADA to make a closing argument.

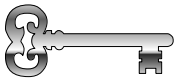
When the ADA concludes their argument, then the parole candidate's attorney is allowed to present a closing argument. Here, the closing argument is similar to that of a closing argument in a trial proceeding. The attorney should argue why you (the parole candidate) should be found suitable for parole. Next, the parole candidate is asked if he/she would like to make any remarks to the panel bearing upon his/her suitability for parole. At this point, the parole candidate will make what I characterize as the "Closing Impact Statement" (discussed in detail in Chapter 2). Finally, the last part of the hearing focuses on victim's impact evidence. Any live victims or next-of-kin are permitted to comment upon them, and the Board goes into deliberations. The parole candidate will leave the hearing room first, followed by his/her attorney. The deputy district attorney, if personally present, leaves next. In about 10 minutes, everyone is called back into the hearing room for the final parole suitability decision. It usually takes about 10 minutes or so, for the panel to read their decision and discuss with the parole candidate why they either granted or denied parole suitability. If the parole candidate is denied suitability, the panel then goes into a discussion

into why they believe the parole candidate still poses a risk to public safety. This is followed by the panel then explaining what they expect the parole candidate to do, prior to the next scheduled parole suitability hearing. At this time, the panel will calculate an expected base term. This base term does not mean the parole candidate will be found suitable for parole once the base term has been reached, rather the setting of the base term only provides what is the expected number of years the panel feels must be served BEFORE a finding of suitability can be determined. A copy of the tentative decision is then given to the parole candidate, which does not become final for 60 days. This decision is appealable by the parole candidate for any due process arbitrariness he/she feels was involved in rendering the decision.

Interpreting the Rights of the Parole Candidate

In the process to understand the parole candidate's rights, the first step is to start by reviewing the California Code of Regulations (CCR), Title 15, Division 2, Board of Prison Terms. This is just like the Title 15 a prisoner has in his/her cell except, that Title 15, Division 2, outlines the parole candidate's rights during the Board of Parole Hearings process. The title 15, Division 2, should be located in the facility law library or you may want to check with the facility Inmate Advisory Council, at your prison. In review, it is important for the parole candidate to understand who it is that appears in the parole suitability hearing. The candidate sits before the Board of Parole Hearings (BPH) panel, an administrative body responsible for setting parole dates, establishing parole length and conditions, discharging sentences for certain prisoners and parolees, granting, rescinding, suspending, postponing or revoking paroles, conducting disparate (unrelated) sentence reviews, advising on clemency matters, and handling miscellaneous statutory duties.

Persons under the Board's jurisdiction are all adult felons. This includes Juvenile offenders who were sentenced as adults under Proposition 21; more commonly identified under the effects of SB 260 and committed by the Superior Courts to the Director of Corrections under Penal Code sections 1168 and 1170, and sentenced under the Indeterminate Sentence law.



Key Point to Consider: *On January 1, 2014, SB 260 (the Youth Opportunity Parole (YOP) Hearing measure was signed into law by Governor Brown. SB 260 will mean new parole chances for thousands of California prisoners convicted as juveniles and sentenced to long terms or life terms in California prisons. The new law has been codified in the California Penal Code as Sections 3041, 3046, 3051, and 4801.*

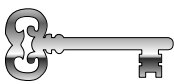
At all hearings, parole candidates located in California shall have the rights enumerated in CCR §§ 2245-2255. Parole candidates located *outside* California shall have their rights specified in § 2367. Listed below is a summarized view of a parole candidate's rights in parole suitability proceedings. The parole candidate has the right to:

- Receive notice of the week of the hearing, at least one month before the week during which the hearing will be held.
- Review the file which the BPH will examine and have the opportunity to submit a written response to any materials inside at least ten days before the hearing.
- Be personally present to speak and ask/answer questions, provided the candidate and/ or his/her attorney do not directly query person(s) considered victims. ***Note: Out-of-state parole candidate hearings are generally held by telephone, however, have been found to be void to the extent it limits an out-of-state parole candidate's statutory right to personally appear at a parole consideration hearing.***
- Present relevant documents. Note: The BPH has instituted a 20 page limit on the number of additional pages that can be added and submitted on the day of the parole hearing. (See Chapter 10 for additional information on the 20 page limitation). The parole candidate should consult with his/her attorney when preparing to present relevant documents to the hearing panel for review.

- Appear before an impartial hearing panel.
- Have Language or communications assistance, if needed.
- Be represented by an attorney.
- Have reasonable accommodation for disabilities.
- Receive a copy of the decision, the information considered, and the reasons for the decision.
- Receive on request, a copy of the transcript of the hearing. There is no statutory deadline within which transcripts must be provided.
- Be notified of reports containing confidential information on which the panel relied, provided the confidential information has affected a decision.
- Respond, in writing, to any material in his/her file.
- Have a commissioner who was on the panel that previously considered parole, and denied parole, if feasible, be a member of the panel at the following Parole Consideration Hearing (This requirement is seldom implemented due to logistical limitation.)

Waivers, Stipulations, Postponements, & Continuances

A parole candidate can request to waive his/her hearing for 1-5 years, but, in doing so, also gives up his/her rights during the time period of the waiver. If the request is made at least 45 days before the scheduled hearing date, it is presumed valid. To overcome the presumption of invalidity, the parole candidate must show good cause and that the reasons for the waiver could not have been known to the parole candidate 45 days before the hearing. A parole candidate may also stipulate (agree) to unsuitability for 3, 5, 7, 10, or 15 years, in accordance with the denial periods mandated by the California Penal Code section 3041.5(b). The Board may either accept or reject the request to stipulate based on the reasonableness of the request.



Key Point to Consider Pending before the Ninth Circuit Court of Appeals is the widely recognized Prop 9 (Marsy's law) argument in which the Federal U.S. District Court held: "...the board shall apply Cal. Penal Code § 3041.5, as it existed prior to Proposition 9, to all class members (Class members include those inmates who were convicted prior to the enactment of Proposition 9). That is, all class members are entitled to a parole hearing annually, unless the Board finds, under former Section 3041.5(b) that a longer deferral period is warranted..." However, until such time the Court of Appeal renders its decision, Marsy's Law is still in effect.

Sometimes a parole candidate will have to postpone his/her hearing date. Postponements are only valid under limited circumstances. Usually, a postponement will occur when the BPH does not have a Board panel available, when necessary report/documents or accommodations are either not completed, or untimely, and when exigent circumstances arise, such as emergencies, prison lockdowns, or illness of hearing participants. Other than reasons attributed to the State, the BPH will grant a parole candidate's request to postpone a hearing when the candidate shows good cause, which is defined as the excused inability to obtain essential documents or information despite a diligent effort, and only if the candidate did not/could not have known of the need before making the request.



Note: A continuance of an ongoing hearing requires a good cause that was unknown before the commencement of the hearing.

The Attorney / Parole Candidate Relationship

Not unlike most initial (first-time) parole candidates, I found myself in the position of wondering "What should I expect with my attorney before I have my suitability hearing?" Frankly, I was unprepared for my first hearing. I did not know what to bring and did not know that the attorney's preparation was vital to my appearance at the hearing. And, though I attended my initial parole suitability hearing while in

the SHU, I later learned there is much I can do for myself, and expect my attorney to do. So, how does the parole candidate prepare for the initial meeting with his/her attorney? In answering this question, I learned that there are a number of ways to prepare. The main thing to remember is to stay calm. You don't have to worry about being legal minded. In fact, if you can effectively communicate your thoughts, ideas, comments, and questions intelligibly, this will help you in your dialogue with your attorney. You may feel a little apprehensive or even nervous at first, but those feelings will likely pass. I have found that if you show your attorney that you are interested in your life, then this will help you to become mindful in your efforts to understand his/her duty to represent you. Asking questions is expected so you shouldn't feel intimidated to inquire into your chances of being found suitable for parole.

Upon meeting your attorney, and the introduction takes place between the two of you, your attorney may ask to review what you have prepared, if anything. I remember when I saw my attorney in preparation for my subsequent parole suitability hearing. My attorney was reviewing my supporting documents and asked me to reduce the number of chronos which duplicated the same number of corresponding certificates of completion – I did not need to submit both. My attorney informed me that because the chronos basically stated the same information as the certificates of completion. My attorney suggested that I should use brevity to be efficient. So, I took out the chronos that basically reflected the same information the certificates showed, and it made my parole board packet a little more manageable to read. The lesson I learned was, by decreasing the amount of paper (without compromising the effects of my supporting documents) , it made it that much easier for my attorney to evaluate my enclosures and discuss my achievements before the parole board panel without becoming bogged down in repetitive worded paperwork. A simple rule to live by: Keep it simple - or better known as KISS.

The next thing to remember is that the bridge to your freedom, and being found suitable for parole, often hangs in the balance of whether your attorney feels confident with you, and is able to see that you no longer project a veil of deception. The key here is to present yourself in the best light possible and show that you are ready to be found suitable for parole. If you have done nothing in advance of your meeting with your attorney, then you are not ensuring a positive presentation and outcome. If you have adequately prepared yourself, then you have already accomplished much of the physical work an attorney often expects you to do. This will go a long way in your attorney's attitude to represent you in the most effective way he/she can.

What a Parole Candidate Can Expect From an Attorney

Let us look first at the State-appointed attorney. Unfortunately, the state appointed attorney's earning is capped at \$400 *per parole candidate represented*. That is not per hour - rather, \$400 is the total amount (an average attorney hourly wage – is estimated at approximately \$200 per hour). The Board outlines the expenditures for their \$400 to be: Appointment to a scheduled hearing: \$50; file review, research, client interview - \$200; hearing completion - \$150. The state appointed attorney must enter into an agreement with the Board of Parole Hearings and acknowledge that the hourly rate is \$50 with the maximum cap at \$400. Now you can understand why so many state appointed attorneys are overburdened with clients and why they might choose to persuade a parole candidate they are representing to stipulate to a fixed Board term denial period. Your presentation to your attorney, including the mailing of your parole plans and supporting documents well in advance of your first meeting with your attorney, can help win him/her over initially.

Let your lawyer know that you are not just another convict trying to scam your way through a hearing. You are better than that; and asserting you have understanding of your rights, may be an effective way to communicate with your attorney that you are committed to presenting yourself in the best light possible at your parole suitability hearing. A sad, but harsh truth is that there are some attorneys who maximize their state appointments, by a method of stacking a number of life parole hearing cases to represent. The attorney may line up three-to-four or more, cases at the same prison, during a short period of time, which may result in the parole candidate receiving only a minimal amount of his/her time from

his/her attorney to prepare the case for the suitability hearing. If you are being represented by an appointed attorney, stand out in advance by sending him/her your parole plans and supporting documents once you are informed of who your attorney will be. Remember to be realistic. Expect little or nothing from an appointed attorney, unless you are prepared to approach the relationship as you would the Board presentation yourself.

A simple rule to follow is, make the effort to be on good terms with your attorney. This will surely help you in the attorney/client relationship. Granted there are excellent attorneys out there and you may end up being represented by one but let's face it, not all attorneys who represent clients are equal in their effectiveness. So, it make sense to take charge of your own life and learn what it means to advocate – even if it requires you to seek the knowledge on your own behalf. This will allow you to express intelligible insights when communicating with your attorney.

Upon your first interview (and possibly your *only* meeting prior to the parole suitability hearing), use the encounter as a practice run for your hearing appearance. Come prepared with copies of your documents and supporting materials your attorney will need to understand in your case for parole suitability. If you know who your appointed attorney is going to be in advance of your hearing, it is in your best interest to send him/her copies of your parole plans, a list of your prison programming before and after your hearing (if applicable), and any laudatory chronos that speak to your character growth in addition to your letters of support. Treat him/her with respect and do not use crude language or excessive prison slang or sayings. A good strategy is to get your attorney's attention by discussing your insight or sudden perceptions that motivated you to actively seek parole. Don't be afraid to engage your attorney and ask questions, "What are my chances?" "Do you think we have a good chance at being found suitable for parole?" "What more would you like me to do before the hearing?" etc. The following is what you should expect from your attorney:

1. An effective attorney will be familiar with the statutes and regulations governing parole suitability hearings in advance of your parole hearing. (See *Greenholtz v. Inmates of Neb. Penal & Correctional Complex* (1979) 4423 U.S. 1, 7; see also *Board of Pardons v. Allen* (1997) 482 U.S. 369, 376. These cases dealt with statutes that, like Penal Code section 3041, governed parole decisions for inmates **eligible for**, but not entitled parole. The high Court held that *language very similar to the language of California Penal Code section 3041(a) imposed a mandatory duty on the state parole authority to release prisoners on parole except in certain specified circumstances, and that consequently, the prisoners had a cognizable (valid) liberty interest in release on parole protected by due process.*



Note: In the case of *McQuillion v. Duncan* (9th Cir. 2002) 306 F3d 895, the parole authority (now BPH), rescinded a parole date as "**improvidently** (carelessly) **granted.**" Here the Ninth Circuit held that, "...because California's parole scheme closely resembles those interpreted in *Greenholtz*, a California state prisoner serving a life sentence has a **cognizable liberty interest in release on parole protected by due process...**" However, while a liberty interest does exist in the interest in release on parole, **the "liberty interest" in parole is the product of state law, not federal law.** See *Swarthout v. Cooke* (2011) U.S. ___, 131 S.Ct. 859.

2. Meet with his/her client as soon as possible after being appointed.
3. Obtain the parole candidate's Central File and Board packet from the institution's "Lifer Desk" (This is discussed more at length in Chapter 9), where a parole candidate's pertinent documents used by the hearing panel and ADA during a parole suitability hearing are located.

Examples of documents may include the Probation Officer's Report (POR), disciplinary violations, psychological reports, and the Board report (an account prepared by the CDCR for each life parole suitability hearing)



Key Point to Consider: *At the first interview, your attorney should have already obtained any pertinent information concerning you, such as recent informational chronos that have yet been placed into your C-file, letters of support for parole, or contact information to obtain letters of support, and the transcript from the last parole suitability hearing, if applicable.*

4. An effective attorney will also have a working knowledge of the facts of your prior history, prison records, and other details necessary to accurately present your case. Sometimes a

proper objection will have to be made by your attorney, to preserve Board panel errors, or correct a panel's area of misconception. Some of these areas might include your in-prison accomplishment, i.e., obtaining general education, high school, or college degree, vocational training, and attendance in self-help groups or programs addressing addiction. Again, if you have already sent him/her these updates, you are already on the path to assisting your attorney in presenting the best effective representation possible.



Key Point to Consider: *If the parole candidate's commitment offense, or pre-prison lifestyle, involved the use of drugs or alcohol, or other addictive negative behaviors, it is advisable to have knowledge of a working self-help 12-Steps program. Your attorney should present this working knowledge to the Board panel. You should keep in mind that if this is applicable to you, the Board will likely ask you about your knowledge of working a 12-Steps program. However, even if this does not apply in your life crime, it is wise to learn the principles of a 12-Steps program, because the Board knows the 12 Steps are more than a road map to addiction recovery – they teach fundamental life skills necessary to making a positive change..*

BPH Appointed Attorneys

As of recent, the Board of Parole Hearings has instituted a new process that brings into play selected teams of attorneys to handle parole hearings in each of 13 newly created regions, configuring on the basis of the number of prisons in proximity to one another. The numbers of new attorneys available to represent Lifers at these prisons in the designated regions are determined by the total number of hearings held in those institutions. Half of all the attorneys being assigned to the panels are chosen on the basis of seniority, having already served as Board attorneys in the past. The remainder attorneys are selected through random draw from a pool of attorneys who have indicated their interest in representing clients in that particular region.

The parole candidate should understand that simply being denied a parole date by the Board does not in itself constitute failure of their attorney. However, if you feel your state appointed attorney did not adequately represent you, did not meet with you, take time to answer your questions/understand your case, consider your input or wishes, or was fully involved in and mentally present at your hearing, the parole

candidate has the opportunity to bring this to the attention of the Board. Further, Board attorneys are not under the same legal scrutiny as trial attorneys and so therefore it is near impossible to bring an Ineffective Assistance of Counsel claim on a Board attorney in a post-Board denial writ of habeas corpus. If you feel your attorney is not being effective, then you can alert either the State Bar Association or the BPH legal

staff to problems you believe unfairly prejudiced you during the hearing. The addresses below will help you in pursuing any complaints you may have:

*State Bar Association of California
845 S. Figueroa
Los Angeles, CA 90017
Attn: Office of Chief Counsel*

OR

*Board of Parole Hearings
P.O. Box 4036
Sacramento, CA 95812
Attn: Legal Staff*

The LOTUS Principle

For many of you, you may feel like trying to prepare for the parole suitability hearing is an insurmountable task and waste of time. Let's assume that you have been locked up for 20 years or more, and you have been told that being found suitable for parole is not realistic for you. What did you do once you believed that there was no light at the end of the tunnel? Did you sulk, have a pity party with yourself, or did you ignore the notion that because you are a lifer, there is no hope to ever receiving a parole date? Sometimes, what we fear the most is letting go of our comfort zone. If we are told there is no hope of ever getting out, we often fall trap to believing it; even though life prisoners similarly situated as ourselves, are receiving parole dates on a steady basis.

I know that when I hear about a lifer getting a parole date, it provides me with a sense of hope that lights a fire under my ass, and pushes me to learn everything I can learn, that can be used to show the parole board panel that I am no longer that destructive, irresponsible, selfish human being. Underneath all the lies we tell ourselves, the one truth that always remains is nobody is going to do the work for you. The simple fact is, if you want to be found suitable for parole then **you** are going to have to put the work and effort into changing your life and behaviors. It is that simple. The interesting thing about writing this book; about learning how to prepare for a parole suitability hearing, when in fact, I have yet to be found suitable for parole, is that with each denial, I am able to take away more from the experience of what I can do to improve my behaviors that will guide me to becoming a better person overall when it is my time to be found suitable for parole. Nothing is easy about life; so why should we expect the same with being found suitable for parole?

Let's face it; if you are a lifer, you are most likely in prison because you were not acting pro-social in your community. In prison, we take on the personalities that allow us to become chameleons in our every day challenge and struggle to make it one day to the next. We adapt to learning how to survive in prison, by taking on the characteristics of either predator or victim. The nature of what we become in prison leaves us somewhere in limbo of understanding the negative or survival behaviors we manifest. It is only when we withdraw from the nature of the predator or victim that we begin to appreciate we have a purpose left to offer life. Surviving is a behavior innate in all prisoners. Like the innate behavior to survive in prison, so too, becomes the will to change our lives by taking off our masks and living each day with hope and purpose of reaching freedom from restraint. Working to regain your lost freedoms does not come free. Just ask any fellow lifer who has been denied parole suitability numerous times before the Board.

However, even when you may feel all is lost, there is still light at the end of tunnel if you choose to believe in yourself. So, in learning how to change your behavior, it becomes also important to learn how to

communicate your changes with the parole board panel. This is where the LOTUS Principle comes into view. The LOTUS Principle is based on the simple belief that if you believe in yourself, you can accomplish being found suitable for parole. There are three basic components that a parole candidate should focus his/her attention on:

1. **LEVEL OF TRUST** - In developing your level of trust with the parole board panel, you have to ask yourself, “*Do you come across to the Board panel as being trustworthy?*” And, while this seems simple enough, it does require more than a positive attitude and confident physical appearance.
2. **UNDERSTANDING** – Ask yourself, “*What caused you to commit your crime?*” In doing this insightful work, you will need to articulate to the hearing panel and identify, “*What were the key factors present leading up to the type of behavior that ultimately resulted in the crime that occurred?*”
3. **SUBSTANCE** – In developing this component, the one crucial misguided belief, is to believe that you can tell the parole board panel what they want to hear, and that will be enough. Expressing your substance, requires the parole candidate to speak logical thoughts and with words that make sense. More importantly, *you need to unmask the unresolved questions to your life crime behavior and have a deeper, insightful, understanding of yourself than you initially believed.*

In every crime there are basic elements involving your emotional and psychological state of mind. The substance of this is, within each of the basic elements to a state of mind crime, underlies key personality traits and characteristics that have contributed to the formula that must be articulated for the crime to make sense. Rest assured, if you are not able to express even to a slight degree, of what was going on in your mind at the time the type of behavior that ultimately occurred you will not be found suitable for parole. So, if you are serious about regaining your lost freedoms, then you must commit to putting in the work to be successful. Nothing in life is permanent- except physical death. Don’t let your circumstances dictate your choices to be free. Applying the LOTUS Principle will encourage you to push yourself forward so you can reach the level of freedom you are trying to achieve – hopefully, to live the remainder of your life in freedom and away from the bonds of physical restraint.

Words of Wisdom: *In human behavior, it is not uncommon to look for solutions in the light of obvious places. And yet, it never occurs to us that there is a way out even in the darkness. The way to your freedom is right in front of you; you just have to be willing to see it. Like many prisoners, we can become fixated on getting out of prison, that we lose sight of the opportunity to grow as a human being. The way out of prison always is there. Be patient, believe in yourself, and accept that putting your remorse into action will be challenging - like stumbling around in the dark yearning for the light...*

Chapter 1: The Journey Begins

Questions for Review:

Where can a person go to find the rules and regulations governing the parole candidate's rights in a parole suitability hearing?

What might be some of the ways a parole candidate can make a good impression with his/her Board attorney?

What role does the ADA play in parole suitability hearing?

Why is it important to review your C-File before appearing in your parole suitability hearing?

What is the "Lifer Desk" and how does this component of your Board hearing impact you being found suitable for parole?

Chapter Two

Developing Your Parole Plans

A Beginner's Mind

Writing *Bridges to Freedom*, has given me the opportunity to share with you my thoughts, ideas, and knowledge, on being able to take advantage of your own opportunities to regaining your social freedom. As a Zen Buddhist practitioner, I find comfort in sharing with my readers what I know to be simply “the first steps on the path to beginner’s mind.” In truth, I am simply an incarcerated man, who was tired of letting my life be dictated by the negative voices around me. In crossing over the bridges to freedom, you will find that to reach personal success, requires a great commitment to yourself. On your journey, there will be hesitations, and feelings of discomfort. This is inevitable on a journey of self-discovery. Being able to confront what led you to committing the type of behavior that ultimately occurred, will require you to peel back the layers of your life, and unmask possible deep rooted psychological and emotional deficiencies. Sometimes, our greatest fear is - fearing what we will find out about ourselves.

Like many of you, I share a similar fate with you. But, that doesn’t mean I have to let my surroundings dictate my choices to be free. Even now, I am able to sit on my bunk, put pen to paper, and gaze out my film covered window to glimpse the moon. A reminder of my intended goal – recover my full freedom once again. Without a doubt, if you are one of my readers who finds himself/herself longing to feel the breeze of the ocean air rustle through your hair while walking in the beach surf or feel the bursting rays from an early morning Sun paint your face while waking up to your loved one, then let those feelings and emotions inspire you to reach beyond being free where you are.

What remains from self-discovery and self-reflection, is the person that we truly are. *Bridges to Freedom* will help you to look through the portraits of your past – and offer encouragement on your self-discovery of realizing your ultimate potential. So many times we look for fault within the Board’s hearing commissioners if we have been denied parole. But rarely, do we want to accept we might be blemished in our explanations of moral reasoning. Like the Board, we as parole candidates have a job to perform. For whatever reasons are present, society has deemed us an unreasonable risk to public safety with being convicted of our crime(s) against society. With crossing the bridges to regaining your social freedom, it becomes the parole candidate’s job to reassure a Board hearing panel, that you NO LONGER represent an unreasonable risk to public safety. It is the only way to succeed.

At times, you will find yourself frustrated, confused, and may even find yourself feeling overwhelm. But, hang in there, with each defeat; you achieve a greater understanding of expectation. The tools I provide in *Bridges to Freedom*, is in large part, because of my own defeats with the Board. However, with each defeat, I learn also of my potential for success. The bottom line is this: if you know you **need** to make changes and do the things that need to be done, then you need to do it. Our greatest advantage is we have the time to figure it all out. Each day passed – is nothing more than a lost day of self-discovery. Don’t feel like you need to rush or feel rushed when crossing over the bridges to freedom. Let it be a journey of personal growth and self-nurturing. You should be inspired to “learn who you are.” Being able to discover who we are provides us with a multitude of possibilities to who we can become in life.

I founded the Bridges to Freedom Support Group and wrote the *Bridges to Freedom* book, because I believe change IS possible. You will find that when you believe in yourself, the universe begins to open up for you. What lies before you, is the path to human understanding. What lies beyond your human understanding – is the choice to be free. Above all, when you write out your parole plans be mindful of your “beginner’s mind,” and allow yourself to be at peace within your purpose. Remember, you are not broken, vulnerable, or weak. “Where there lies the improbable, therein lies the possible.” I wish you well on your path to discovering the life that waits for you. Let your journey enjoy you – as your journey carries you over the bridges to freedom.

Writing Insightful Parole Plans

Walking into your parole suitability hearing with nothing in your hands makes an immediate statement to the Board: *You are not taking the matter seriously.* If you were a carpenter and showed up at a job site without a toolbox overflowing with saws, screwdrivers, hammers, etc. how would your supervisor perceive you? You need to make that initial positive impression and your readiness and organizational skills will make you stand out from the rest of those who preceded you, and were denied parole. A parole candidate should not underrate the effect of preparation, organization, and confidence can impact the Board. Granted, the panel may already have copies of most of your parole plans and supporting documents and materials (This should have been done weeks before your arrival), but you should also have a file folder with “tabbed” sections for quick reference during the hearing in case the Board cannot find a referenced item. An extra copy or two of everything can also be beneficial. It might even be a good idea to bring an additional copy with you of an updated résumé or recently received document/support letter, and speak up when you arrive, adding that you have a new item you would like considered.

Applying this strategy, will not only demonstrate your interest in your own welfare, but will further show that you are prepared and thoughtful enough to provide copies for each panel member and anyone else present. Introducing your supplemental documents (be mindful of the twenty-page (20) limit 20 single –sided pages or ten (10) double-sided pages), before the hearing begins will also give you a greater chance to be heard early in the proceedings. Your documents should be kept in a clean (preferably new) expanding-type envelope. Be smart, and don’t “tag” your folder with gang signs, cartoon characters, or anything else. Keep in mind that while your tattoos cannot be covered up, absent wearing a long sleeve shirt, you can start to overcome a panel’s immediate perception of your tattooed appearance by showing the panel your efficiency and seriousness to the matters at hand – **YOU WANT TO GO HOME.**

When preparing/outlining your parole plans, a good way to begin is to reflect on your thoughts and identify a section to start writing about. Writing should not feel like a linear process; another way to say this is, do not allow yourself to be bogged down with specifics – simply jot down a list of ideas related to your topic. How you begin writing is not as important as what you finally end up concluding. Use legible notes as you proceed, keeping a list of “needs” or “things to do.” You will definitely be revising and making changes as you write. Even at this early stage of drafting you may want to consider sending your work out to have someone else review and edit for errors. The idea is to create a piece of writing that flows in every description and presentation. It’s a standard practice with all writers to stop – start – and throw away many drafts. If this happens to you, don’t panic. You are simply developing new life skills to help you become successful in your actions to be found suitable for parole. (See additional writing strategies in this chapter and following chapters).

The Five Point - Commitment Action Plan

In analyzing what type of parole plans should be presented in the suitability hearing, think in terms of what you can show the panel that demonstrates, *“How you intend on taking care of the things in your life that matter the most to you.”* In developing your parole plans, an important strategy begins with the realization that if you show up at your hearing unprepared, you are telling and showing the Board you really do not want to be found suitable for parole. Let’s look at this way. Assume for the sake of

argument, that you are a parole board member charged with the responsibility of keeping the public safe by determining which parole candidate may still pose a risk to public safety. A parole candidate appears before you, seeking a grant of parole. The parole candidate shows up without any realistic or reasonable plans once released. What is the likely percentage you would grant the parole candidate a parole date, in the absence of (1) a criminal and substance abuse relapse prevention plan, and (2) plans that describe how the parole candidate intends to cope with the fallout of a relapse? If you answered this truthfully, you would not find the parole candidate suitable for parole – so, why should we expect an actual parole hearing panel do the same?

When we apply for a job, it is usually required to provide a job résumé or at minimum, interview for the job prior to being hired. Similarly, appearing before the parole board, requires the same energy, proficiency, and preparation, you would undertake if you were likely seeking to become gainfully employed in society. The difference here, is, parole plans should consist of the necessary actions pointing to the parole candidate's suitability. All parole plans should lead to one conclusion: the parole candidate has mapped out his/her life that can reasonably tie to a successful rehabilitation on parole. An effective strategy I created for this is, the *FOCUS Formula – Life Parole Five Point Commitment Action Plan*.

FOCUS Formula

The FOCUS Formula is a multi-stage systematic 5-year life parole plan, representing **Five Outside Commitments Underlying Success on parole. Being able to write a complete, well thought out, parole plans for your parole board résumé, is important to being able to convince the parole hearing panel the parole candidate has put much thought and energy into being realistic and responsible, in the pursuit of a successful parole and rehabilitation. Keep in mind that freedom has never been gained without effort. Therefore, the parole candidate should expect to spend many hours researching sources, developing support networks, and overall being resolute (serious) in his/her own determination to achieve the ultimate goal: *freedom from restraint*. (Note: the FOCUS Formula is instructional only. Your attorney may/may not want to include this particular document in your overall Board packet. But, it is a good idea to have a working knowledge of a 5 year plan in the anticipation of being asked by the panel the intended goals of your future once released).**

Commitment #1: 24 Hour Plan

A 24 Hour plan might consist of the following:

- *Which county will you parole?*
- *Where will you live?*
- *How will you transport yourself to the parole office?*
- *What medications are necessary/where will you obtain the medication?*
- *Who will provide subsistence and personal care services?*

Commitment #2: 7 – Day Plan

A 7-day plan might consist of the following:

- *Identify how to re-establish a social identity*
- *Identify how you will maintain your sobriety (12 Steps program)*
- *Identify steps to finding a job*
- *Describe any necessary outpatient therapy*

Commitment #3: 30/90 Plan

A 30/90 plan might consist of the following:

- *Showing how will you develop spiritual growth?*

- *Showing how will you settle financial responsibilities (i.e., debt/credit issues, child support, alimony, motor vehicles fees, etc.)*
- *Showing how you intend to overcome the barriers to working (if applicable)*
- *Identifying how you will manage/cope with health concerns (i.e., medical, addiction treatment, mental health needs, etc.)*

Commitment #4: 6-Months to 1-Year Plan

A 6-Month to 1-Year Plan might consist of the following:

- *Describing how you will reconnect with yourself*
- *Describing how you will reconnect with family*
- *Describing how you will reconnect with society*

Commitment #5: 3-5 Year Plan

A 3-5 Year plan should be able to outline where the parole candidate intends to be in 3-5 years once paroled. The purpose of this plan is to articulate long term reasonable goals that will take you into the future, living a productive, pro-social life, coping with goals of rehabilitation. A 3-5 Year Plan might consist of focusing on the following:

- *Family growth*
- *Educational goals*
- *Housing options*
- *Rehabilitation progress*
- *Social contributions*
- *Employment growth*
- *Emotional, psychological, and spiritual balance*
- *Volunteer service to the community*
- *Certificate of Rehabilitation*

For the initial parole candidate, you will need to develop parole plans that will require you to write an autobiography (your life story), encompassing multiple aspect of your life. The focus of your plans will be to write a parole board résumé that describes the historical patterns that begins your life, your life prior to the life crime offense, and if applicable, your poor impulse control in-out of prison. The following strategies will help you in developing your own parole board résumé using a formula I developed called the *PRO-Plan* (Parole Reentry Operations Plan). However, you are free to use the strategies I include in any fashion or manner that fits your own parole board résumé design. The key is to internalize the strategies, and let them work for you, in a process of discovering the choices and decisions impacting your life.

Writing out a PRO-Plan

The writing of a PRO-Plan will require the parole candidate to confront the problems encountered growing up. The personal history that makes up his/her life will include the negative and positive aspects of your life. For example, we all grew up impacted by everything in our individualized environments. This may include the elements surrounding you as a child; e.g., no father around, seven siblings, the presence of a likeable step-father/mother, emotional, psychological, physical, sexual, abuse, and whatever else may be an element directly responsible for shaping the person you became. This is the purpose of writing the PRO-Plan résumé. Remember, you are not setting up an outline to blame your later criminal conduct on something or someone else. You are telling your story about your life, and the elements of your life, that impacted your decisions and choices that eventually led up to the crime(s) that ultimately occurred. The standard PRO-Plan may include (by sections) the following:

- | | | |
|---------------------|-----------------------------------|----------------------------|
| 1. Introduction | 2. Insight Into Childhood | 3. Marital History |
| 4. Military History | 5. Past Criminal history/Insights | 6. Insight Into Life Crime |

7. Mental Health/Therapy	8. Self-help/Rehabilitation Programs	9. Educational Goals
10. People's Contentions	11. Why the Parole Candidate Should be Released	12. Residential/Transitional Parole Plans
13. Conclusion	14. Residential/Parole Plan Resources	15. Appendix

You can eliminate or add topic/sections to personalize your own PRO-Plan the way that let's you understand it best. The important thing to remember is when you are writing on each of your topics, you need to have a section that supports your claims. To make locating your supporting documents easy on you and the hearing panel, you should develop an Index to Supporting Documents in front of your Appendix section. A sample of sections in the Appendix might include the following:

- Education (Diplomas/Certificates)
- CDCR Sponsored Correctional Learning Network
- Community based Self-Help Education
- Personal Growth/Development
- Spiritual Guidance
- Charitable Contributions to the Community
- Parole/Rehabilitation Support
- Photographs of Family/ Friends, and places of residence
- CDCR Vocation/Education
- CDCR Sponsored Self-Help Education
- Mental Health/Therapy
- Letters of Remorse/Efforts in Making Amends
- Self-Improvement Book Reports
- Letters of Recognition/Acknowledgement
- Laudatory Chronos
- Miscellaneous

Where to Start Comes from Your Heart

The importance of appreciating insight and self-understanding cannot be overstated. The PRO-Plan is your first opportunity to allow the Board members into your current life; the commissioners only have your past indiscretions to represent you until you provide them with your presentation. A preemptive strategy is to *introduce the person that you are* to the Board. If you were a serious drug addict, you need to show you have insight and understanding of this problem. Using this example, your personal reflections should lead you to answering the question of, *"Why did I use drugs?" "What problems were I trying to avoid and used drugs as a cover up?" "Was I that insecure I allowed those around me to lead me on this rocky road?" "Are these issues resolved?" "How did you do it?"* Describe your past personality flaws and defects; *"how did they contribute to your criminal history, your life offense, and your negative behavior"* (if applicable) in prison. I cannot stress enough; you should not minimize, or diminish, this topic. You did what you did, and you were convicted. You will now have to show *"how was the contributory motivations for the crime that ultimately occurred resolved?"*

Now, you will need to develop a strong relapse-prevention/recovery plan as well. List your triggers, coping skills, and support network, and at the same time, contact your local (where you plan to live when paroled) NA/AA groups and get a sponsor from that organization. Write your sponsor; start a positive relationship, in advance. If drugs were a major contributor to your life crime – detail this area expressly. Describe your efforts to contact drug treatment centers (even if they cannot help you, this rejection *shows you are actually trying*) and keep copies of these contacts. The Board will want to know if the parole candidate is involved in spiritual/religious services. If not, it is a good idea to get involved so you can express the benefits of such an association. Further, because your PRO-Plan will incorporate the factual basis of your conviction, the Department of Operations Manual (DOM) will support placing your PRO-Plan into your C-file or Unit Health Record (UHR), provided the information you provide is tied to your rehabilitation and mental health development. This is a strategy I continue to use. Moreover, your correctional counselor and prison psychologist can note your personal growth and spiritual growth in their respective pre-Board evaluation reports; however, this is not automatic and may require you to ask them to note it for you.

Next, you should take particular care to describe your motivations for receiving the Rules Violations you acquired in prison, if any. The Board will want to know, *"Why you ignored the potential consequences and still committed the offense?"* (e.g., did you ignore staff giving you a direct order because

you were hurting over a John Doe/Jane Doe letter? Did you have a bad day at your work assignment and felt the need to release pent up frustrations? Or, did you feel like you had to break the rules because of peer

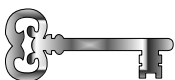
pressure at the time, etc?) The point here is, by acknowledging even the seemingly simple indiscretions; the Board will notice your attention not to minimize your culpability.

In general, you will need to list all your self-help participation whether in prison or outside the prison. What did you learn from each? Did you look forward to the sessions and enjoy the company of others and find value in the instruction? Are you presently able to relate the teachings acquired from the self-help programs to your life crime or history of criminal behavior? For example, the Bridges to Freedom program teaches the value of changing your behavior by putting your remorse into action. So, if you were a participant in this program, how would you describe the steps you learned in putting your remorse into action? Creative Conflict Resolution programs, teaches strategies to confront and overcome issues of anger, stress, and how to cope with conflict in your life. If you completed this course, how did participating in this course help you with breaking away from the influences that may be negatively affecting you and your program? The Board especially wants to hear you describe your feelings of remorse about your past involvement in negative activities. If you have such a harmful history, you will need to show the Board and courts that you have changed.

Do not get discouraged by repeated re-writes and editing of your project. This is part of the process. Even now, I make periodic changes to my PRO-Plan. You will find yourself gaining insight as you re-live your past experiences, even if they still cause you discomfort – express these feelings in your writings (In your PRO-Plan Conclusion section you might write: *“Even as I prepared for the parole hearing I found I was disappointed in myself when I reviewed police reports and transcripts describing my life crime. I was a bad person then and still despair about how I hurt so many people through my actions many years ago.”* **REMINDER:** Use your own wording and descriptive phrases – do not write merely what you see in this textbook!) Do not forget to include the pleasant times in your writings since these, too, give balance to your insightful explorations of your past. *Search your soul and actually re-live the adventure of your beginnings; the good and the bad.*

Without doubt, writing your PRO-Plan, or an individualized parole board résumé, will be the biggest challenge of your in-custody life. When you finally decide how you want to proceed, and began putting down on paper clusters of information that pop into your mind, in no time you will feel a spiritual cleansing sensation in you day-to-day life. Believe me when I tell you that having the courage to challenge yourself, by addressing the hard choices and decisions that led to your incarceration will be the most rewarding experience you will achieve in preparation for your parole hearing. It is hard enough as it is, to write about a life we have worked equally hard to suppress. Yet, when you have confronted the demons of your past, or embraced the most memorable moments that helped shape your life, there is nothing more satisfying than to look in the mirror of your past, and reflect on the person you now have become in the present. Doing this personal reflection will truly help you to understand the detrimental impact of your poor choices in life and guide you one step closer to understanding why you committed the life crime.

Writing from your heart will leave an indescribable impression on your soul. When the finished product sits before you, your name on the pristine white paper – name on the cover page, you will feel a sense of accomplishment beyond anything you have ever experienced. For myself, once I completed writing my first draft, it was somewhere in the range of 40 pages. Over time, I chipped away here, chipped away there, and finally settled on the revision I felt comfortable with. I knew in my heart, that I had more than accomplished something special for myself; I had let go of my ego, and awoken to see my true potential as a human being. Writing freely, allows for the mind to control the actions of your pen or pencil in a way that will leave you jotting down notes, scratching out words, and overwriting on the margins of your notes you already put down on paper. Truth be told, it is worth every minute of your time to write from your heart. Knowing I had a responsibility to my victim, his family, the community, my family, and myself, allowed me to put my life in perspective; it was the only way I knew how to live my life – by taking the steps to put my remorse into action.



Key Thought to Consider: *Developing your personalized plans will require you to be patient. The road to parole comes from the heart – not*

from the rush of writing out a quick outline that leaves you scribbling out a less than complete history of your life. You will need to be flexible in your thinking and writing. It will take patience and time to uncover some of the deepest and darkest parts of your life. Keep in mind that as your life goes through change, so does the rest of life around you. As your insights develop you will need to update your parole plans as you learn more about yourself.

Setting Up Your PRO-Plan Résumé

If your Counselor called you down to his/her office one morning and said you were being released from prison in five days, you obviously have many things to consider before walking out the gate. “Who will pick you up?” “Where will you live?” “Where will you get release clothes this fast?” The same holds true for any planning involved when preparing your parole plans for the Board. In writing out your parole plans, the first step is outlining the information you have clustered on paper. Preparing your parole board résumé begins with identifying a section to write about. So, how do you decide what section to start writing about first? Once you have brainstormed (come up with ideas) and written your thoughts down, you can expect to see nothing that makes sense, at first. Writing out your outline is not about assigning yourself to a strict style of organization. To the contrary, setting up your outline is about *freely* fitting the pieces of a puzzle in the right spaces, one piece at a time. This is not a linear process; do not allow yourself to become bogged down with specifics - simply jot down a list of ideas related to your topics of interest and line them up in an order that helps you understand the process of your developed insights. Now, let’s look at how an outline should be constructed.

Sample Guide to Formatting Your PRO-Plan Résumé



Initial Parole Consideration Hearing / Subsequent Parole Consideration Hearing
Applicant: Doe, John G., CDCR #A-11111
September 2012



INTRODUCTION



Life Crime

I was convicted by Jury Trial on March 01, 1993, in the Los Angeles County Superior Court, Case #BA12345-99, for violation of Penal Code section 187(a) Murder 2nd Degree. I was sentenced to a prison term of 20-years-to-Life with the possibility of parole. I was 21 years old at the time of my Life crime.



Summary of Crime

On July 4, 1998, I was at a City Park in Vernon, California, drinking with my brothers, Uncle and a few neighbors. I was unemployed for eight months and living on unemployment and could not find a job. Paroled in 1997 for a Grand Theft Auto conviction, I had few job skills and worked occasionally for a landscaping crew to make money. The frustration of my inability to find a decent job left me with free time and I started hanging out at the local park with a few guys I knew from prison and my childhood. Like I did as a juvenile, I wanted to be a part of a group of people who accepted me as I was and I joined them in smoking weed and drinking most of the day. About 9 PM, I was quite drunk and thought I heard a neighbor hitting on my wife of seven years. I confronted him and he denied the contact but I saw my friends watching me so I hit the neighbor. He got up and still denied making passes at my wife so I picked up a nearby baseball bat and struck Manny Do-gooder as he walked away from me...

(Continue this section with how you were apprehended – Did you turn yourself in? Did you run when you found out the police were looking for you? Did you destroy or hide the baseball bat? Etc...) If you are

claiming your innocence in the crime of which you were found guilty, you should write out a summary of the crime to show you have awareness of the reason(s) that led to your incarceration.

➔ **Summary of Initial/Subsequent Parole Consideration Hearing (Date :)**

The panel’s decision to deny me parole was based largely on a presumption that I would pose an unreasonable risk to public safety if released. The panel concluded because I was cold-hearted about striking Manny while he was walking away... he was no longer a threat to me...

(Continue here by actually quoting what the Board said in its recommendations for denial...do not hold back...Include such things as a quote from one panel member who said, "...the prisoner has a record of violent assaults ... failed on previous grants of probation and parole ... has failed to upgrade vocationally ... no self-help programs ... no anger management ... The psychological report said..." Add what the Board recommended or suggested to better you. This includes Stipulations, Postponements, Waivers, etc.)

➔ **INSIGHT INTO CHILDHOOD**

➔ **Influences of Childhood**

(Provide an autobiography from your first recollection of your childhood. Was your childhood filled with beatings, angry drunk parents, siblings who picked on you? Did you experience forms of physical, emotional, and/or sexual abuse? Be specific and describe several incidents that help the Board realize what helped form and shape the person you are. Do not blame these people/incidents for why you turned out the way you did; just state the examples by showing the Board how you grew up. Include positive aspects of your childhood and teenage years. Remember to SHOW – Don’t tell!! This section can be lengthy if you desire, but do not blame anybody/thing for why you are serving time.)

➔ **MARITAL HISTORY**

➔ **Second Marriage**

(You might want to personalize this area by providing details of how you met your wife, "...Kim first wrote to me when I was in the SHU at the California Correctional Institution – Tehachapi. We wrote each other for several years and became good friends in the process. We eventually began to form deep and true feelings of love for one other. When I made the choice to give up the life of a thug, Kim made the decision to become a part of my life for good. Kim became my partner in marriage several years after my release from the SHU. We inspire each other and draw on each other’s strengths and weaknesses; a balance in the harmony we are confronted with in the challenges that come from marriage...")

This section also applies if you are in your first marriage. The point here is to provide details of any marriage and children born before the life crime (or after), and current status of these relationships (do you write your child regularly; have a reasonable relationship with your child’s mother or father even though divorced, i.e., does he/she still accept your collect phone calls, etc.) If you divorced, an acceptable description of that termination might be, "...the divorce was amicably terminated in a lawful civil contract..." You want the Board/Psychologist and ADA to see how you have developed and provide them with a picture that describes and shows the reality of marriage from behind the wall. Being realistic and honest provides another window into the overall factors of determining your credibility.

➔ **Children**

➔ **MILITARY HISTORY**

➔ **Summary of Military History**

(If you served in the military, you should provide a summary of your military service and attach a copy of your Certificate of Discharge (DD-214) to the Appendix.)

➔ **PAST CRIMINAL HISTORY/INSIGHTS**

➔ **Past Criminal Behavior**

Your Life reflections should provide you with an opportunity to express any past criminal behavior, cumulative life experiences contributing to your past criminal behavior, childhood development forming the outlook on your past, and how you dealt with your existence. List your arrest record with explanations of each offense, “uncharged acts”(cases where you were only listed as a suspect but there was no arrest: domestic violence, mutual combat, etc. List the date first, then the explanation of what went on – be descriptive. What was the outcome of the case: GUILTY, how much time, fine? etc.), and your history of prison disciplinary actions: 128’s/115’s. Also, list any experiences impacting a direction into military service (if applicable), a synopsis (summary) of any past criminal behavior, and history/insight into post-conviction disciplinary behavior.

➔ *(February 23, 1992: Arrested by the LAPD for graffiti at a McDonald’s restaurant; resulting in counseling at the Van Nuys Division Juvenile Facility. I was with two of my friends from school and we spray-painted the back wall of McDonald’s because the manager threw us out earlier in the evening. The other guys were both older than me and I allowed them to participate in the vandalism...).*

➔ **Cumulative Life Experiences Contributing to My Past Criminal Behavior**

(“My home life was good but my father was seldom at home and my mother was busy caring for my younger siblings; there always seemed to be babies around the house. When mom and dad did not have a baby of her own, she took in neighborhood infants as a day care program. Dad worked two jobs to support us but he spent little time at home so I ended up on my own at an early age. That is when I started associating with the older guys in the neighborhood...”)

(Continue on here, explaining actual experiences, not blaming your criminal behavior on anyone, but indicate you lacked positive leadership from your parents and depended on directions from the older guys... be creative.)

➔ **Childhood Development Forming on Outlook on Life and How I Dealt with the World**

(Similar to the “Cumulative...” section above, but this is where you state errors you made, like, “Hanging out with the older crowd, who were like replacement parents, I grew up too fast and thought this was ‘normal’ behavior...”)

➔ **Overall Synopsis of Past Criminal Behavior**

(“...I lived recklessly and made poor choices, even when I realized what these older guys were having me do was wrong. I remember thinking that I was going to do wrong, or break the law, but I allowed the influences to rule me...”)

➔ **History/Insight into Post-Conviction Disciplinary Behavior (115’s/128’s)**

8/19/05: CDC-115, Mutual Combat; Division D offense, found guilty.

9/11/05: CDC-128, Destroyed State Property, Division F, found guilty.

(The Board will have all your disciplinary actions in front of them – do not leave out anything. After listing the violations/disciplinary actions, explain how you fell into the same cycle of self-destruction in prison as you did outside, allowing others to make your decisions for you, etc.)

The remaining categories are self-explanatory. Take your time and analyze what the section is asking for. You can combine some of the areas since they are similar ... length is not important – insights and honesty contained within are!!

➔ **INSIGHT INTO LIFE CRIME**

In this section, your insight should include writing about the defining qualities of your life crime, the impact of your life, the specific impact, direct impact on the victim's family; life crime on society, life crime impact on the parole candidate's family, and your own loss of freedom.

➔ **Defining Qualities Contributing to Life Crime**

- *Impact of Life Crime* (show the significant and/or major effect of the crime)
- *Specific Impact* (describe details and particulars of the crime)
- *Direct Impact on Victim's Family* (identify immediate consequences of the crime)
- *Life Crime Impact on Society* (show how the community was terrorized by the crime)
- *Life Crime Impact on My Family* (show how your own family have suffered because of the crime)
- *My Own Loss of Freedom* (show how your actions result in a continuous ripple effect from your conviction of the crime)

➔ **MENTAL HEALTH/THERAPY**

(This section should be a summary of the Initial Board of Parole Hearings Forensic Assessment Evaluation and/or results from any assessment of dangerousness determined by the California Static Risk Assessment (CSRA) and Correctional Offender Management Profiling Assessment System (COMPAS) Core evaluations that provide your level of risk to re-offend. If applicable, describe any self-initiated therapy and approaches you have taken to self-managed treatment.)

➔ **EDUCATIONAL GOALS**

(Identify your educational goals, describing high school/GED completion, any college courses completed, or vocational school accomplishments. Secondary schools (i.e., Blackstone Career Institute, etc.) would also be included in this section. Diploma and certificate copies are referenced to and kept in the Appendix section.)

➔ **PEOPLE'S CONTENTIONS**

(You should familiarize yourself with the District Attorney's participation in any Initial or Subsequent parole consideration hearings if applicable).

- People's Position at [Initial/Subsequent] Parole Suitability Hearing

➔ **WHY THE LIFE PRISONER DOES NOT NOW REPRESENT AN UNREASONABLE RISK TO SOCIETY AND SHOULD BE RELEASED**

(In this section, articulate that the Life Prisoner *does not now represent an unreasonable risk to society* and should be released. This is probably the hardest section to complete. You should be able to draw on your life experiences and reflections, basically being able to provide a personal observation recognizing traits associated with insight – defining qualities in your personal growth/relationship with your past, relationships with others, and relationships with self. You should further be able to describe, in detail, evidence of your personal growth.

- Defining Qualities in Personal Growth/Relationships with the Past
- Relationship with Others
- Relationship with Self

➔ **RESIDENTIAL/TRANSITIONAL HOUSING PAROLE PLANS**

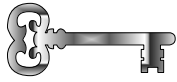
(This is where your Plan "A", Plan "B", and Plan "C" needs to be described at length. There can be no exceptions to this requirement.)

➔ **Plan "A"**

Where will you live? How will you support yourself? What about healthcare, transportation, available rehab facilities [NA/AA Sponsor available?] Is there job training in the area where you will settle?

➔ **Plan "B"**

An absolute must!! If your primary residence promise falls through [What if your sister's husband decides he doesn't want you around or your primary residence is conditional on other factors such as your wife or husband have been renting a room from a landlord that is not particularly happy about your life crime and will not allow you stay at the residence with your wife or husband once released?] Where will you go? Are their transitional shelters in the area? – List their addresses, etc. You will further want to consider writing a Plan “C” if you have not lived with your spouse at any time prior to your life crime conviction.



Key Thought to Consider: *A parole candidate who really hasn't had a whole lot of opportunities to really be in a partnership like a relationship, should think about some kind of transitional housing (Plan “C”), prior to actually cohabitating with a spouse who has never lived with the parole candidate , in so far that you want to show the Board that you have a plan in place, that will help you ease yourself into the relationship; understanding that being a new person in his/her life and home, is going to be a difficult challenge to cope with once released.*

➔ CONCLUSION

(Here, the parole candidate has the opportunity to express to the Board panel and attendees, his/her heartfelt remorse and state of mind, during the hearing, what has been learned from the incarceration experience. Keep in mind that your attitude plays a key role in your closing impact statement.)



Note: Parole plans for inmates subject to deportation: A new administrative directive from the BPH lays out what factors commissioners should consider at parole hearings where the inmate is subjected to deportation by Immigration and Customs (ICE). The directive clarifies what should be considered “realistic plans for release” when deportation is expected. If the parole candidate has been interviewed by ICE prior to the parole hearing such an interview would constitute a good indication of a pending deportation. If it appears the parole candidate will be deported than parole plans in his/her home country becomes more relevant. Additionally, if a parole candidate has ADA (American with Disability Act, or handicap of some variety) or significant medical issues then deportation may be less certain and California parole plans more important. A parole candidate who is facing deportation should consult with his/her attorney for further clarification on this matter.

The Subsequent Hearing Board Packet

Not unlike the initial parole candidate, subsequent parole candidates should also file their own parole plans and Board résumé (See Ch. 9 for more information on preparing for the subsequent parole hearing and advancing a parole hearing date).

Tips to Developing Your Parole Plans:

1. *Be thorough and really put some effort into writing your PRO-Plan résumé.*
2. *Have someone you trust read it and make suggestions.*
3. *Try to obtain an outside person to place the PRO-Plan and written submissions on their computer. Using a typewriter is okay if that is the only resource you have, but if you have to make corrections (or updates) you will usually have to re-type entire pages. You can*

check prisoner news letters/periodicals (PLN, SJRA, Fair Chance Project, etc.) for “Typing Services” ads. A typical outside service might charge you “between” \$1.50 - \$2.00 per page to transcribe your handwritten notes onto a computer. Another source would be to hook up with someone who works in a prison assignment and has access to a computer. Sometimes, a clerk may have the time and be looking to earn a little extra canteen on the side. (Note: Author does not advocate circumventing the rules and regulations. Clerks should request permission before using State computers for personal use)

4. *I believe in the use of photos. Providing family photos from when you were on the outside, or family photos since you have been inside prison, provides the panel with a snapshot to your strong family ties and allows the Board to see that your overall character development can be normal.*

Preparation is Key

Planning for community reentry is the most important factor assuring success, but it does not come easy to face the challenges of society from a prison cell. Your PRO-Plan should describe your understanding of the difficulties of returning back to society. As a parole candidate it is your responsibility to show the hearing panel that you also understand that success in the community is accomplished by resolving the potential barriers. All parole candidates need to demonstrate they are prepared for the unknown. You must have a plan to avoid people, places, and things that may cause relapse. You will need to demonstrate you have given serious thought to your inventory of needs. When developing your parole plans, keep in mind the hearing panel wants to see what steps you have taken in preparation of potential drawbacks and what plans you have to counter these roadblocks to success. Many parole candidates are not prepared to present a secondary plan or emergency plan. You cannot have such a positive attitude (may be perceived as a cocky attitude by the hearing panel) that you do not need a fallback position. Be prepared to discuss both Plan “A” and “B”, and if necessary an emergency Plan “C” in detail. Going over your parole plan strategy with other prisoners, family, attorney, etc., will allow you to practice your presentation and apply your unique character traits that will show the hearing panel how you have changed into a mature law abiding human being. You want to be unique – while still going over all the standard conditions the hearing panel expects of you. Spend some time going over your optional plans and try to find alternatives to what every other parole candidate has already presented. Its up to you to do the homework – being successful can only happen if you choose to work hard preparing yourself. Whether it is a small victory or reward, the feeling is indescribable when your finished product sits before you. In those moments of letting go of your ego, you will be awakened to see your true potential as a human being. When you have achieved your personal success in writing your PRO-Plan résumé, a sense of pride and accomplishment will overcome you; preparing you to face the challenge of your life - in regaining your lost freedom.

Chapter Three

Insight – Understanding Causation

What is Insight?

Issac Newton watched an apple fall from the tree and then formulated his theory of gravity. Since then, psychologists and neuroscientists have defined this as the “insight experience.” The insight experience is thought to be in two (2): Stage 1 begins with the impasses (obstacles): before there can be a break through, there has to be a mental block. Stage 2 follows with the second key feature to insight: the feeling of certainty that accompanies the idea. (*The Eureka Hunt*, Comley, et al., p. 398. 2010). Cognitive neuroscientist Mark Jung-Beeman asserts: “*Insight is one of those defining features of the human mind, and yet we have no idea how or why it happens.*” Further, experts seem to agree that trying to force an insight can actually prevent the insight from materializing. The reasons behind this are, “if you are in an environment that forces you to produce, and you feel very stressed, then you are not going to have any insights.” (quoted by J. Lehrer, *The Eureka Hunt, Ibid.*)

What the experts are telling us is to develop insights, we must learn to concentrate, but concentrate while letting the mind wander. So, how do you learn to concentrate while letting your mind wander? The simple answer is to encourage your insights – then you have to find a way to relax. For myself, I found that calming the chatter of my Monkey Mind (chattering of the undisciplined mind) thus allowed me to open my mind to arrive at answers when I least expected them. Meditation and prayer can not be underrated as a valuable tool in the course of developing your insight. I equate the development of insight to that of solving a puzzle – when solving a puzzle you know to organize the pieces so that all the pieces fit together. You might start with piecing together the frame of the puzzle and then work your way inward. Eventually, you will arrive at solving the center.

To some degree, all of us are filled with information that seems to be disorganized. When you have reached an insight you have to be able to restructure your information into organized thoughts. Stripping down the complex reasoning, *insight is being able to see your disorganized information in a completely new light*. The encouraging point is once you have been able to attain your insight, here is when you have restructured the information in your mind into cognizable patterns of thought – you never need to go back, only forward.

Insight Recognition – Heart Dynamics

Let’s take a look at an example that demonstrates simplified insight. *Insight can also be defined as a perception into the inner nature or real character of a thing*. But, what does this mean? I characterize this as “Heart Dynamics.” While insight is commonly referred to as intuition, awareness, and perceptiveness, insight recognition examines the state of your behavior while formulating an opinion (or best guess) of what caused your current condition. This is Heart Dynamics at work. In the nature of developing personal growth, what is often overlooked is the value of what we are able to gain from changing the perceptions in the way we process information. Adapting the principle that “...if we are not clear about what we are trying to accomplish, we are less likely to accomplish it” (Sensei, Gary W. Janka, PhD, *Boundless Mind Sangha* (2014)), much of who we project to be is seen in the way we interact with those around us.

How do you know if you have truly changed your behaviors if you are not allowing yourself to become aware of the behaviors that are being changed? The human heart follows where we put our attention. Let's assume that as a parole candidate one of the areas that needs to change in your behavior is your awareness of "How your life became unmanageable to the point you began committing crime." Would you be able to identify where in your life you began to exhibit the defects of your character? Tracing the path that leads to the origin of our defects of character requires the heart to atone for the harm endured enabling us to make peace with the self; the first stage of the HEART Dynamics.

Preparing for the parole board hearing is the most mentally exhausting and emotional nerve ending experience any parole candidate will undertake. Questions are played over in our minds and thoughts are always changing: morphing beyond a sense of recklessness to what we may or may not understand as new beginners to the awakening of the heart. Take the example of the prisoner who has a background that includes a childhood marred and stained by physical and sexual abuse cruelty. Does it seem likely the parole candidate would know *how* to admit to the horrific periods of his or her life when the abusive cruelty was occurring? Speaking from this viewpoint, it become very difficult to open up and share with complete strangers (i.e., psychologists, board panel members, etc.), when the heart has shut down all emotional ties to the things that were done to us with cruel intentions.

Being able to understand that this type of social dynamic was the trigger to living an unstable social life growing up provides the parole candidate with the perspective that if they disclose the horrors of his or her past then this might make them vulnerable to their emotions. This is because the overriding shame is the burden that keeps us locked away deep and inhibits us from rising to a healthy surface. Trying to cover up or suppress the cruelty of our pasts, keeps us from trusting anyone to believe anything we have to say concerning the abusive cruelty that inevitably shaped and motivated our criminal psyche. Forgiving ourselves from the childhood hardships is the only way the heart can begin to heal. When we are able to heal our own heart, only then can we begin to take the step to work towards healing the hearts of those we either caused to suffer in our lifetime or suffered at the hands of inflicting suffering on to others; including the abusers who were enabled by our own fears. Example:

"I remember when I was approximately five years old. My mother figure (foster care home) used to drink excessively. On one particular occasion, I was playing with my toy in the center of the rainbow rug when I heard two large bangs pierce the quiet air around me. My brother Ralph was also with me in the room. Moments later, after hearing the loud bangs my mother figure came into the room where my brother and I were and was holding a smoking revolver gun in one hand and a green bottle with liquid she would swig from when entering the room. My mother figure turned to look at me, raised her left arm, and pointed the revolver at me. She just stared at me sitting on the rug. All of a sudden my brother Ralph steps in front of me and she pulls the trigger. Nothing happened. She looks down at me, smiles at me and Ralph and takes a drink from the green bottle and places the revolver into her mouth. Seconds later I watch in a state of horror and disbelief my mother figure pulling the trigger and hearing the gun explode into her mouth. I remember the blood being sprayed all over and parts of my mother figure speckling me, as I sat there in state of shock. I don't know how long I sat there but I eventually felt someone pulling on me to get up. I think it was Ralph but I am not really sure. As I was being lead out of the house, I was able to see my father figure lying motionless on the floor of the kitchen; my sister Sara (not my biological sister) was also laying face down in a pool of blood. She was not moving. What I later learned was that my mother figure had shot my father figure and shot my sister dead. At some point thereafter, Ralph and I were placed into a new foster home. This new home was anything but good."

In remembering the tragic events of my life, I have to find the courage and strength to *let go – let be*. People have always told me that “*there is nothing I can do about the past,*” but, is this true? So often we as parole candidates get lost in the distorted vision that we have to let go without pain – even when letting go brings on added pains. In applying the HEART Dynamics to your life, you can become aware of that very thing that has kept you from letting go emotionally and finding your inner peace – without the feeling of added pains. Defining what is acceptable to the heart requires a natural reaction to the emotional charge felt when we process the bad things that happened to us in our lives. Whether we have shut down all of our emotions the one impending area that is manifested is the anticipated outcome that follows when confronting the very nature of the past cruelty that we have worked so hard to erase from our memories and past. As soon we are able to understand that by opening up our heart to the vulnerabilities of the past we no longer have to feel ashamed, then we can begin the healing process that will help build our mental and emotional states by unlocking that which will allow us to be released from the shame that has kept us bound from being truthful to ourselves in our disclosure to others.

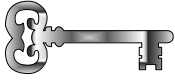
Another aspect of the HEART dynamics is being able to distinguish what we know *to be the truth* vs. *what we want others to believe is the truth*. Turning inward to ourselves and forgiving our hearts from the pain and cruelty inflicted upon it at the hands of others, will allow each us the opportunity to accept that the defects of our character is a by-product of the stains left from the memories we try to wash away from the sins committed against us. Being able to disclose the hurtful truth of our past, requires us to have the courage to turn the key that leads to us being released from the internal binds we place on ourselves. When we fail to become aware of the fear of being judged by the truthfulness of the exploitations suffered, we feed the perceptions held by others. This fear of being seen as a vulnerable or weak person therein becomes our downfall to exhibiting true emotional responses. When disclosing our deepest secrets from the heart, we are being credible to ourselves. Being credible may not earn you a parole date, but will earn you much needed relief for your heart. Living in the past, and having the emotional strength to let go of the past in incremental stages, will provide each person the healing element necessary to finding inner peace. Making this peace within you will open the heart. Nothing matters in life - if the fear of the heart is the fear of an unhealthy truth.

Insight Awareness – Common Factors

Turning to the parole board, a common factor that many parole candidates face is being confronted on the issue of insight. Though settled case law has determined the life crime itself is not sufficient, or even a paramount reason to deny parole, most denials still cite the crime and parole candidate’s lack of insight as the primary reason. Example: you may have a panel that says, “[W]e do want to see you focus on you. We want to see you focus on you because that developing insight the State’s doctor saw, that insight your doctor saw, we don’t think it’s fully developed yet.” This is an example taken from my 2011 subsequent parole consideration hearing. So, be aware that insight awareness is not determined by any measuring stick other than what is believable and honest. Once you have reached this threshold, you will gain a greater opportunity to be found suitable for parole.

Having insights into the crime and its foundation causes, suggest that the parole candidate has examined the behind-the-obvious reason(s) for the crime. If you look deeper into yourself, you should be able to see that your original insecurities led you to make bad decisions and you did nothing to correct your conduct. The Board wants you articulate your insights into your past, and describe what you have done to better yourself once you understand the motivations for your actions. Having insights into the crime and it’s foundation causes, further suggests that the parole candidate has performed acts which tend to indicate the presence or remorse, such as attempting to repair the damage, seeking help for or relieving suffering of the victim(s), or indicating that the parole candidate understands the magnitude of the offense. Generally, the rule is that unless the parole candidate expresses a measurable level of insight, and accepts responsibility for the offense, no date will be given because no finding of suitability can be made. Being aware of your insights is being able to talk about the activities or actions that contributed to causative

factors of the crime. The Board wants to see that you understand your personal inadequacies, i.e., poor self-esteem, insecurities, and other negative factors that point to your short comings and defects of character. Delving into your psychological reflections will show the Board you have an awareness of your insight.



Key Thought to Consider: Board panels are not bound by the opinions of Board psychologists or independent psychologists. Nor are they bound to necessarily hold true to what they said about the parole candidate's level of insight, if the Board does not have the same level of confidence with respect to their appreciation of understanding the causative factors relating to the parole candidate's crime(s).

Unlocking the Steps to Insight Development

Developing your insight means you will have to confront issues about yourself that might be difficult to face. “*Why did I commit this crime?*” In answering this question, maybe you became detached with stressors in your life, which resulted in a lack of emotional, spiritual and psychological balance. Or, maybe in an effort to hide the truth during the police interrogation you thought it best to besmirch (sully) your victim with negative comments because it was easier to acknowledge the police accounts, than to admit the embarrassing and shameful truth. Whatever your reasons, you need to express how you have learned that unpredictable moments in your life, can change your life, if you're ready for them. At a minimum, you should think about developing a deeper level of insight into your actions, and show through the thoughts of your personal inventory, meditation, prayer, reading books, discussing your insights with family, friends, loved ones, self-help sponsor, chaplain, or therapist that you have been able to unlock the memories previously suppressed. Now, how do we begin to develop our insights?

As discussed above, the parole candidate must be able to describe his/her insights completely and fully. One way to do this is to develop diagrams, charts, and graphs that show who you were then – vs. who you are now. A strategy that helped me to unlock my insights is the PHOENI-X Summary chart. The PHOENI-X Summary is a summation of our negative and positive ***Patterned Human Objectives Evoking New Individualized Experiences*** that demonstrates our actions over time which defines the nature of our behavior. The sum of our experiences is the defining qualities that contribute to the value of what we have learned from and gained through making our life choices. Personal growth manifests from being able to accept that we need to make choices that allow us to grow from the negative identity we exhibited in our past.

The context in which an identity is created – is created within some other underlying context. Let's take the example of a criminal. Somewhere, in the static history of the criminal, there comes a moment where weighing the scales of right thought – right action, overcomes logic. Whether a criminal entertains what specific role his or her persona will have in a particular situation, what inevitably follows is a subconscious emotional acceptance, that sets in motion feelings of, “What if,” “What if I am not liked,” “What if no one cares,” etc.. In large, I think what is missing in society is not the “Why,” individuals become criminals – but “How” does the individual become a criminal? In other words, “What underlies the existing identity that contributes to criminal behavior?”

We all come from the void of nothingness, yet there is so much of inert special energy we inherently absorb once we are born. In view of acceptance, the social construct of life is similar to the way a builder builds his home: “There is no roof without a supporting foundation.” Individuals who become criminals act in the same way. In the loose sense, the pathology of criminality doesn't necessarily entail the physical actions it takes to commit the crime – rather, the pathology of a criminal lies in the foundation of the identity the individual builds over time. Being accepted for who we are is illusory – nobody is as they were before they become what they are in the given moment.

What defines the acceptable me? The sad truth is that society is hardwired to see only what is stigmatizing to acceptable social normalcy. The problem with this view is no one individual is like the other because each of us is defined by the characteristics that shape and motivate our individual identity. Case in point, in the psychological perspective what defines acceptability is the manner in which objectivity is rated by individual subjectivity. In contrast, the sociological perspective seeks to understand the social nature of humanity without the trappings of subjectivity – one part of a whole as an acceptable identity.

At its end, the genuineness of action can only be revealed in the veracity seen in reality – not illusion. Identity to become – or just be – manifests from the moments we enter the world taking our first breath of life. Unfortunately, the schisms we are challenged with in our growth, is not limited to only physical maturation. Whether, it is family, society, or spiritual, etc., what defines the individual is simply the effect of choice. And where each choice leads us, is the only way to define what the acceptable identity is. Life is too precious to be anything other than which we were chosen to become, even if what we are in the moment – is all we can be because of the choices independently made for us by others. The PHOENI-X Summary will provide you with the opportunity to list and chart your personal life inventory and discover the toxic character traits that became the product of your identity. Being able to admit each of your defects of character, will allow you to heal from the toxicity you exhibited and will further enable you to rise above the social stigma of, *“once a criminal- always a criminal.”* To overcome the bad personality you used to be – you have to recognize through experience the value of goodness of who you are now - *in the moment*. Once you have been reawakened, being reborn in your new character out of the ashes that confined your growth will become the defining foundation to cultivating and nurturing the Phoenix within you. (See the sample PHOENI-X Summary chart below)

Now imagine, spending a lifetime without understanding the concept of insight, you will severely decrease your chances of ever regaining your freedom on the outside. The Board and Governor want to know how you review yourself as responsible. *What was the specific impact of the offense? What are the defining qualities of your crime, and what mitigating factors contributed to your crime(s)?* Unquestionable, you will need to express to a hearing panel “How you came to realize your insights?” It is not enough to simply assert that you have developed insight. Another solution is to show a hearing panel your prison behavior and performance, by creating a Behavior/Productivity Chart. This will allow the parole candidate to chart his/her progress before and after each parole consideration hearing.

The idea behind developing your insight charts, etc., is to have the tools to show the Board that you are genuinely aware of your insight and individual progress. Providing the Board with a detailed description that illustrates how your level of insight was reached, will show the Board that you have a clear understanding of the work it takes to unlock the deepest parts of your life that have shaped and motivated your behavior and actions over time. Keep in mind that every psychological report may say that you have insight – but the hearing panel might not see it without the benefit of a visual display. It’s up to the parole candidate to establish credibility with gaining his/her insight. Demonstrating your insight visually with charts, graphs, and/or displays, can help the hearing panel visualize your positive efforts. It’s your life – *paint the picture and complete the circle*. Show that YOU understand it!

The PHOENI-X Summary Chart
Parole Applicant: [Name]

My Past Toxic Character Traits	My New Cultivated Character Growth	Defining the Phoenix Within Yourself
I was immature, reckless and foolish in my thinking.	I have gained maturity.	I am wiser in making my choices and decisions.
I was impulsive.	I am no longer acting on impulse. I have overcome the fear of thinking how others will view me, if I do not take a particular course of action.	I think things through before I act taking time to evaluate my choices and actions.
I was egotistical, selfish, uncaring.	I am no longer acting for my own gain and accept that there is greater reward in accepting people for who they are.	I have learned humility and how to be kind and love others. I am open-minded non-judgmental, tolerant, and unprejudiced to other people’s faults.
I was self-absorbed and had an over-inflated ego, and delusional perception of my self importance.	I have learned to be mindful of my delusional self and I am no longer acting with my head in the clouds.	I have learned to like the true me for the person I can be, not only for myself, but for the benefit of giving back by service to others.
I was resentful of my childhood.	I am no longer resentful of my past – my past does not dictate my choices to be free.	I have learned the value of what it means to make amends and be at peace with myself and others.
I was angry.	I am no longer angry at myself or feel the need to exhibit negative energy by becoming angry.	I have learned to control my anger by recognizing and managing my internal/external triggers. I have learned to turn to my internal wisdom and find calm in exercising my anger/stress management plans.
I was overly concerned about the way others would think of me.	I have learned to accept my defects of character and I continue to grow from the experiences of self-reflection, meditation, and personal inventory.	I am able to recognize it is okay to let go of my childhood shame and pain with being open, willing, and honest with myself and others.
I lacked a sense of true self-esteem and hid behind a wall of shame and lies.	I am no longer letting my life be dictated by things that are beyond my control. I have the power to choose my choices in life.	I am now able to look at the new true me, and find value and appreciation in myself I accept that I am not damaged - and I have meaning and purpose in life to want to help and share my experiences with others.
I was dishonest with myself and others.	I am no longer being dishonest with myself and others. I am willing never to be dishonest again, even in a minor way.	I am now able to look within myself and recognize I can’t begin to make amends/peace with others and myself if I’m choosing to live behind my walls of lies and half-truths.

SAMPLE

The FOCAL Examination – Exploring Your Criminality

Take a moment to think about the crime you are sitting in prison for. If you are a normal human being, it is likely that you have played out the circumstances of your life crime (provided you are not claiming innocence) many times over in your mind. And, the closer your parole suitability hearing appears, the more likely you are trying to find the right words and thoughts to express your remorse for the crime(s) committed by you. Sometimes the pictures in our mind do not exactly fit together in the perfect picture we are trying to construct with our thoughts and memories – particularly if we are trying to recall memories from our distant past and it is not uncommon to try and forget what we have done to others and our selves. This is where the FOCAL (**F**our **O**bservations to **C**riminal Awareness and **L**iability) Examination comes into play.

The big part of self-growth and personal development comes from recognizing that we have a greater responsibility to ourselves to be better than we were. So, what about the victims and their families? How do we atone for the harm we are responsible for causing? The truth is victims and the families of victims are waiting for us to provide them with the truth. In other words, they want to feel a sense of peace with closure. Nothing can justify committing a crime because by the very notion – crime is illegal. But, there is the opportunity to try and make sense of our actions and what led up to the point we committed the criminal act that eventually occurred. For many parole candidates, it becomes too difficult to try and put the right words together that brings a peace of mind for the actions we caused – leading to harmful conclusions. Whether the harm is emotional, physical, psychological, or financial, the harm inflicted by us continues to ripple throughout our lives. The only way that we can overcome this sense of regret and shame based guilt, is to cope with the harm we have caused by understanding and expressing true remorse.

By applying the following formula, “REACT” – we are able to see that **Remorse is more than having an overwhelming sense of guilt and regret for the pain and suffering caused by our actions to others.** However, to reach this level of cognitive growth the FOCAL Examination must be explored. Without it, the change within you cannot truly put remorse into action.

R = Reconciliation

Making amends to victims/ making peace with self

E = Empathy

Putting yourself in the shoes of the people you hurt – victims

A = Accountability

Taking responsibility for all immoral/bad acts including accepting the judicial/legal determination of [all] your crimes as set forth by the courts

C = Compassion

Having true feelings for the people that have suffered because of your actions

T = Transformation

Building life skills by changing your behavior – putting your remorse into action

The FOCAL Examination centers on four stages of criminal awareness: Subconscious, Conscious, Post-Impact and Emotional Stasis. Being able to recognize “The How” will lead to understanding “The Why.” Once this insight has been reached, remorse begins to take shape in your life.

- **Subconscious** stage: In the first stage, the mind is in contemplation and is not fully committed to forming a conscious action. In a way, the mind is beginning to stir our patterns of thought that leads to the conscious decision to commit the crime.

- **Conscious** stage: In the second stage, we come to the point when the mind and physical motivations began to take shape. At this stage, the necessity to shape our motivations is materialized in the way we choose to express our pattern of intended behavior.
- **Post Impact** stage: In the third stage, we begin to have recognition of the negative action(s) after the fact. In this stage, as the time elapses, guilt ridden regret may begin to materialize and an overwhelming emotional feeling may leave you questioning your actions. You began to feel the weight of your moral reasoning behind the choice to commit the criminal act.
- **Emotional Stasis** stage: In the final stage, we struggle how to accept the criminal awareness and liability that manifests in us from “knowingly” committing our crime(s). Are we the one responsible? At this stage, the person might become faced with the emotional challenge of accepting or repressing their criminal conduct. The person reawakens their conscious awareness in personal reflection and is either able to acknowledge or not acknowledge breaking the spirit of the law. Once this stage of the FOCAL Examination is complete, the person will have a greater understanding of what underlies the contributing emotional and psychological factors to believing it was justified to violate the law.

Now let’s discuss the FOCAL Examination. Before you write out why you committed your crimes(s), take a moment to consider how your answers may/may not be helpful to you receiving a parole date. Then, think about your victim(s) and Victim’s next of kin (VNOK) who wish only to know the truth. Ask yourself “What if you were the family member of a serious/violent crime victim?” It is common to rationalize that people find closure with answers. VNOKS and society as a whole all need answers. Providing answers not only shows your growth as a human being but also helps in the healing process and opens the door to potential changes of heart and forgiveness. In another way, “answers not only bring closure for the victim and VNOK, answers in turn remove the void of personal grief and regret from the back of your mind and depths of your soul – permitting the parole candidate to regain his/her sense of human balance. The FOCAL Examination is just one way you can try to understand each action involved in your life crime and past criminal behavior.

Understandably, we can never be truly healed from our actions that led to the harm or cruelty of our intended and secondary victim(s). The best we can hope for is to remember what it feels like to have caused a deep, permanent, pain and absence in each of the lives affected by our poor choices and negative behavior – contributing to our total lack and disregard for society and ourselves. Nobody said that being honest is easy. The truth is, being honest makes us feel vulnerable. Developing your own FOCAL Examination will allow each of you the ability to experience your individual vulnerabilities. In doing so, you will discover humility in yourself and learn to be humble towards others. At a minimum, it is not about how we alter the way others perceive us – or the way we perceive ourselves. It is about letting go of the constraining thoughts that do not allow us to heal the open wounds of those impacted and affected by our negative actions. It is important to find empathy, understanding, and appreciate that the cornerstone of all humanity is centered on the truth. The FOCAL Examination will further help the parole candidate reach that level of personal growth – on the path to regaining freedom. Remember: **ASKING FOR FORGIVENESS IS SELFISH - There is nothing you can say that will justify breaking the law and causing suffering to others.**

How the Board Interprets “Insight”

Ok, let’s assume that you have developed the necessary insights to understand the causative (root) factors of your crime and why you committed your offense. *Does your insight reflect more than an*

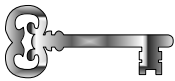
intellectual understanding of your crime, or do you truly understand that to have insight you must also have remorse? The Board may have their own ideas on how you should react and feel about your crime.

But, does this mean you do not have insight if your insight does not satisfy the panel's characterization of insight? To answer this, you need to understand that the Board of Parole Hearings (BPH), guided by the Forensic Assessment Division (FAD) (see Chapter 5 for more information on the FAD), generally characterizes remorse and insight as two abstract concepts which do not lend themselves to any operational definitions of measurement. Therefore, any opinions regarding remorse and insight are subjective in nature. Remorse, typically implies a tormenting sense of guilt for one's actions, while insight, can be defined as the ability to see and understand clearly the inner of things."

When you express insight, the thoughts leading to your remorse should be reflected above an intellectual manner. This means you should be able to also express your remorse on an *emotional* level. If you have trouble with expressing your emotions, you should consider discussing this with the prison psychologist, spiritual advisor, family, friends, or even with other inmates who you consider as your friend.

Developing Empathy and Remorse

Accepting responsibility for your actions requires a committed step across this bridge to freedom. Before you are able to convey your empathy and remorse, you must first take responsibility for *all* your actions. It doesn't do you any good to use excuses and blame others; if you do not accept responsibility for your choices and consequences of your past actions, the Board is likely to find that you lack insight into the causative factors of your offense as well as the consequences of your behavior. However, if explanations are needed to clarify facts concerning your role in the crime or to address mitigating circumstances, do not hesitate to do so – but always take full responsibility for the consequences of your own choices and actions.

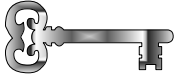


Key Thought to Consider: *When providing information to the panel in response to questions directed to you from the deputy district attorney via the panel, make sure when you are responding (if you do), that you make it clear to the panel where your responses are 1) explanations, and/or 2) excuses for poor choices. You do not want a hearing panel to find that you are not suitable for parole because they were unable to conclude at which times you were providing excuses and/or legitimate explanations in your responses.*

Example: *“At the time I committed my crime, my judgment was clouded by (e.g., drugs, friends, immaturity, financial stress, poor values, greed, etc.), and I made a choice to rob my victim because I wanted his car. At the time, I thought I could control the outcome of my anger by taking his property and wishing he was dead. I thought this would relieve the pain of my shame and embarrassment for feeling like my friend betrayed my trust by telling my secret to others. I murdered my friend because I lashed out – the way I would when I was child and someone hurt me. You may also want to express: “My crime was nothing short of a violent and callous murder. I inflicted a great cruelty onto my victim, his family, the community, my family, and myself. I am able to recognize that these are the victims in my crime and I am responsible for their hurt, pain, suffering, anger, and fears.” Always make sure you are able to understand remorse, regret, and empathy. It is important to show you understand the pain you caused and the empathy you will carry for the rest of your life.*

Even if you are found to no longer have a propensity for violence, you can still be found unsuitable for parole on the basis you were not considered credible. Further, the more you attempt to distance yourself from the crime, and the more you attempt to avoid responsibility for your actions, the more the Board will likely see you as unsuitable for parole. On the other hand if you are innocent, then you should

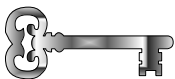
maintain your innocence. The Board does not have the power to change the status of your conviction, but they do have the power to determine whether you are suitable or not. If the parole candidate is claiming innocence, it is wise to consider completing the Board's recommendations (i.e., input from a documentation hearing, consultation hearing, or subsequent parole hearing) even if you are innocent. You just never know how following through with the Board's recommendations might impact the hearing panel.



Key Thought to Consider: *When reflecting on how to respond to the question, “Why did you commit this crime?” Keep in mind that many lifers have tried to explain “Why they committed the crime.” When you provide reasons, excuses, or clarifications to the crime that ultimately occurred and resulted in your life sentence, you are essentially responding in a way that the Board may consider that you are trying to justify your actions. The problem with this is in the eyes of society and the Board, there can never be a justified reason for breaking the law and/or violating the spirit of the law. Be careful **NOT TO JUSTIFY YOUR CRIMES WITH THE BOARD.***

Showing Your Empathy and Remorse

The Board wants to see you understand empathy and remorse. This does not suggest that you “fake it” by displaying a false sense of remorse and empathy. You must be able to express genuine emotions. This is important. The Board may ask, “How do you feel about this crime?” Or, they may ask you to tell them, “What was going through your mind during the crime?” Whatever you are asked, this is your opportunity to show the emotions you feel in being able to express remorse and understanding of the pain and suffering you caused to the victim(s) and VNOK, etc.. At some point, in developing insights you must find a way to show your emotions. Keep in mind that sympathy can only be shown when someone else close to you has suffered similarly (i.e. murder, sexual assault). Being able to relate how your personal losses, if any, brings you to understand the sufferings of the ones impacted by your choices will enable you to express your sincere regret for the pain the act caused. Writing down your emotions is one way to begin recognizing the responsibility to atone for the harm the suffering caused. You will find that expressing your true empathy and remorse is a way to cultivate forgiveness not only from others - but also yourself.



Key Thought to Consider: *What psychologist’s term “affect,” is often an important part of the picture the Board sees. The best advice remains from several attorneys and prisoners who have successfully paroled: prepare in advance, be genuine, consider all questions before answering and be aware that it is more than words that leave an impression.*

A.F.R.A.I.D. and Emotions

Often, there are parole candidates who lack the ability to recognize how to express emotions before a parole hearing panel. I am one of those people. What I have discovered about myself is that by using mnemonics, i.e., AFRAID, I have given myself the tools necessary to remind myself how to tap into my emotions. This idea is not to circumvent the process of your responsibility to show you have emotions before the hearing panel; rather, the AFRAID mnemonics is to help you get in touch with your inner emotional “you” and guide you through the hardship of finding the right words and behavior to express atonement for your calculated and deliberate choices and actions that led to committing the life crime and all your past poor choices. This is not a proven model and should not be applied accordingly as a proven model. Emotions are determined only by the individual.

- ❖ **Ashamed** – Appearing before the Board panel is going to be the most humbling experience of your life. You should not present yourself as a person who is full of pride – especially if you are incarcerated for being convicted of any crime against another human being.
- ❖ **Fearful** – Being fearful will keep you grounded. Let’s face it; the panel needs to see the fear in your eyes when speaking to them about your life. When talking about the troubles that led to committing your life crime, keep in mind that this is not something you should be emboldened about. Appearing before the Board is a scary experience – and you only get the time you have to make a valuable impression with respect to your behavior, attitude and character. Being fearful of the lifer hearing process will keep you mindful in your effort to be found suitable for parole.
- ❖ **Remorseful** – Being remorseful is the cornerstone to expressing true feelings for the harm we have caused to others. Showing remorse is about expressing emotional regret in order to gain atonement. What are you remorseful for? This can only be answered by the individual. Keep in mind that being remorseful is about the ability to show “how” you have come to understand the detrimental impact of your crime and actions that led up to your crime. The feeling of internal discomfort that comes with being remorseful for the actions you caused is the key to putting your life in perspective and being able to never lose sight of “Why you are in prison.”
- ❖ **Apologetic** – Saying “I’m sorry,” will never be enough to make up for the hurt, pain, suffering, and horrors that follow with committing crimes against others. We have no absolute right to expect to be forgiven for the crimes we have committed against other people and in society. It is selfish thinking to believe that all will be forgiven if we just say “I’m sorry.” Being apologetic is about recognizing that the only thing we can do as violent criminals of past, is to ask for our victims to have compassion for us – nothing more, nothing less – we do not have the right to ask for direct forgiveness because it is selfish. In time, it will be up to the victims or victims’ next of kin, to decide whether they are ready to forgive us. It is important to express that you are “sorry,” but never lose sight that merely saying you are sorry, will be taken as meaningful as you intend it.
- ❖ **Insightful** – Being able to express Insight is the key element to being found suitable for parole. Face it, no parole candidate has been found suitable for parole (in present times) without having first shown he/she has the capacity to identify their insight into the cause of their crime and triggers that might have led to the person committing their crime(s). Insight is being able to “see inside you.” Often, the parole candidate can become so fixated on trying to “show” they have insight, that when he/she begins expressing their insights, it comes out forced and has the appearance of being labored. The necessity to being insightful is equally important to having the panel believe that your insight is genuine. If the panel feels that your insight is anything less than credible, you will have a difficult time trying to dig yourself out of the hole you end up digging for yourself for acting less than credible – thinking that you only need to tell the panel what “you think” they want to hear from you, will most assuring result in a lengthy denial of parole.
- ❖ **Disclosing** – Not talking about the things in your past that leave you shying away from eye contact is a sure way to be found unsuitable for parole. It becomes very important to feel the pain of your own life experiences in the words you express to the hearing panel. Disclosing the inner most secrets of your life will show the panel that you have come to grips with the hardships of the past and have learned to deal with the emotions that follow with e.g., being abused, or bullied as a child. Being able to talk openly about the things that may have impacted the criminal direction of our life, shows the panel that you have gained a deeper understanding into the causative factors of what might have contributed to you committing your life crime. Having a peace of mind and finding peace to forgive others originates from the ability to forgive yourself. Recognizing that when we end up making the wrong choices we end up hurting ourselves; when we end up hurting ourselves, it becomes inevitable that we also end up hurting the people closest to us. Disclosing is about being honest. When you can be honest with yourself, the panel will reward you for being true to your born human nature – even if it doesn’t result in gaining you a parole date you will feel a sense of relief to have finally come to grips with your inner

most fears. Being open, honest and willing to talk about the ugliness of your life will relieve you of any further shame and burdens you previously were not able to let go. Overall, disclosing will bring you peace – allowing you to reach new heights to compassion and human understanding.

Insight/Courts/and General Trend

In the case of *In re Shaputis* (2011) 53 Cal.4th 192 (“*Shaputis II*”), the California Supreme Court determined the rule concerning a prisoner’s insight. The *Shaputis II* Court determined: “[I]t is true that often the most recent evidence as to the inmate’s level of insight will be particularly probative on the question of the inmate’s present dangerousness, but that is not necessarily the case.” (Id. at p. 211; italics in original.) The Court explained: “The regulations do not use the term “insight,” but they direct the Board to consider the inmate’s past and present attitude towards the crime --- and the nature and magnitude of the offense. These factors fit comfortably within the descriptive category of the insight.” (omission) (Id. at p. 218.) The common ground here is the courts understand that the expressions of insight and remorse will vary from prisoner to prisoner and that there is no special formula for a prisoner to articulate in order to communicate that he/she has gained insight, into and formed a commitment to enduring a previous pattern of violent behavior. Remember, it is the parole candidates’ responsibility to establish a record that he/she no longer remains a danger to the public because you understand the gravity of the offense and the causative factors controlling the life crime. Make sure you reflect in your insight and remorse that your character has changed. Anything less, will likely provide some evidence in support of the Boards’ conclusion that you remain dangerous and are unsuitable for parole.

The PRAISE Objective – Scoring Your Current Level of Insight

Taken what you have learned up to this point, it is necessary to develop a starting point. After all, insight can not be forced. The PRAISE (Personal Risk Assessment Inventory Survey Exercise) Objective is a thought developing exercise that operates on the basis of answering six surveyed questions. These six questions are intended to assess the parole candidate’s mental and emotional responses associated with risk and relapse management. In other words, the PRAISE Objective is a designed to help the parole candidate identify where he/she may lack insight in efforts to build a foundation to achieve parole board readiness. By answering the following questions, the parole candidate will be able to see the level of insight already present and the level of work needed to build on the less insightful responses in preparation to be found suitable for parole. The PRAISE Objective exercise will help all prisoners develop the ability to see and analyze the root causes of their actions and behavior. Only by being honest with yourself, will you know where to begin changing your life and developing the living skills needed to return home. Don’t cheat yourself out of regaining your lost freedom. Put some real thought into following the PRAISE Objective.

Personal Risk Assessment Inventory Survey Exercise

Answer the following questions and assess yourself by circling the nearest number that corresponds to your own views on a scale of 1-5 (1 being the least prepared; 5 the greatest), once you have answered the questions and surveyed your own responses you will be able to see the level of insight you already have versus the level of insight you may need to develop further to be found suitable for parole.

1. I have insight into my crime. 1 2 3 4 5

Explain how your insight will show remorse or explain how you can achieve insight:

2. I do not deny, minimize, or blame others for what happened. 1 2 3 4 5

List five reasons why you feel your crime was committed:

3. I believe I have changed since the day I committed my crime. 1 2 3 4 5

Describe how you have changed:

4. I understand I have difficulties, personality flaws, and defects.

1 2 3 4 5

Describe your personal difficulties, personality flaws, and defects:

5. I believe I no longer present an unreasonable risk to society.

1 2 3 4 5

Describe why you believe you no longer represent an unreasonable risk to society:

6. I believe I am ready to be found suitable for parole.

1 2 3 4 5

Explain why or why not you should be found suitable for parole:

Chapter Four

Defining the Role of the Prosecutor

“The role of the prosecutor (deputy district attorney, ADA), is to comment on the facts of the case and present an opinion about the appropriate disposition.”
- Cal. Code Regs. tit., 15 §2030(d)(2).

The Prosecutor’s Role in the Suitability Hearing

In every parole suitability hearing, the one common theme is that every ADA knows life imprisonment in California does not mean life in prison per se. It means something substantially less for the person convicted of an indeterminate – to – life sentence. When a parole candidate who has been convicted of a life crime comes up for parole consideration, the county that prosecuted him/her is given the right to appear at the parole hearing, comment on the parole candidate’s danger to the community and suitability for parole release. Every prosecutor’s (ADA’s) primary role at the parole suitability hearing is to keep the facts straight. Because this is the ADA’s primary role, it is essential to understand the purpose and nature of why they take time to not only become familiar with the relevant documents but also why they make certain that the Board panels have the correct information about the parole candidate’s commitment offense and criminal tendencies.

The ADA begins their preparation by organizing and preserving their in-house files on lifer cases. The intent of the ADA is to make every effort to ensure that the case files on murderers and other lifer inmates do not get routinely shredded or otherwise destroyed. They know that the information contained therein is vital and can make the difference in a lifer parole hearing. Generally, the ADA has a formalized process for preserving abridged parole files before sending the main file back to storage. This archival system is accomplished using mainly volunteer paralegal interns. In the ADA’s commitment offense preparation, the ADA will make sure that the following items are contained in the lifer file:

- Crime photos
- Video – or – audio-taped impact statements
- Police reports, autopsy or other scientific reports
- Transcripts of witness statements
- Preliminary hearing, change of plea and/or sentencing transcripts
- Reports for the Probation Officer
- Penal Code section 1203.01 statements (discussed further in Ch. 4)

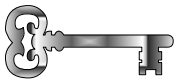
The ADA will be prepared to visit the archives of the superior court, even if the above items are in the files. This is important to remember because the ADA will be trying to tie documents – i.e., statements by the victim, statements by the VNOK, or the parole candidate, to their preparation that will support the

parole candidate's finding of unsuitability of parole. And, while this is a general rule, this is not the exception to the rule for the parole candidate who is not found by a hearing panel to be an unreasonable risk to public safety. Remember: the ADA will always apply the same preparation criteria to all parole candidates not because they are fixated on you personally, rather because it their sworn duty to represent the public and keep the public protected from a dangerous "felon" being released back into society.

Suitability Hearing Preparation – The C-File

Before the parole hearing, the ADA will receive the lifer packet containing some, but not all, of the information to be found in the parole candidate's Central file (C-File). When possible, the ADA will review the C-File to check for omissions (information left out) or inaccuracies. Contained within the lifer packet will be the parole candidate's Abstract of Judgment of the commitment offense. The Abstract forms the basis of a description of the parole candidate's offense. Generally, the ADA will make certain to note any inaccuracies or material omissions that should be brought to the attention of the hearing panel. Usually, the most valuable tool at the ADA's disposal will be the parole candidate's Appellate opinion. As needed, the statements of facts in the Appellate opinion will be controlling. In situations where the commitment offense was a plea, the same can be said for the Probation Officer's Report (POR). Rest assured the ADA will consider both documents to be of immense value in preparing for a parole candidate's lies, half-truths, or attempts to mitigate the commitment offense.

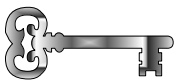
Of additional use in fleshing out the commitment offense, a parole candidate should expect the ADA to browse the crime scene photographs. The ADA's preparation will be reviewed through a prism showing the *heinous, atrocious, callousness, and cruelty* of the commitment offense – particularly in a murder.



Key Point to Consider: The ADA knows that members of the Board may well have law enforcement experience, but as anyone knows, mere words cannot show the reality of a crime the way that one appropriate photograph can. A photograph can drive home the heinous nature of a murder or sexual assault. Also, in such cases, are the comments of the judge at sentencing. A parole candidate should be careful not to underestimate the intelligence of the prosecutor. Always expect that they will not and quote a turn of phrase that does the job in summing up the crime of the criminal (Example: "We oppose parole because the prisoner still appears to be too tightly wound...")

In reviewing the lifer packet, the ADA will make certain to note any inaccuracies or material omissions that are felt should be brought to the attention of the panel. Usually, the ADA will favor the Appellate opinion. The statement of facts contained will be viewed as controlling when needed. In situations where the commitment offense was a plea, the same can be said for the POR, as earlier stated. Additional information that the ADA may gather and consider is the factors for murder related crimes committed on or after November 8, 1978. These factors will include:

- Multiple victims were attacked, injured, or killed
- The offense was dispassionate and calculated
- The victim was abused, defiled, or mutilated
- The offense was carried out in a manner that shows "an exceptionally callous disregard for human suffering."
- The motive for the crime was inexplicable or very trivial compared to the offense.



Key Thought to Consider: Additional information that the prosecutor may wish to use or have considered for the hearing must be submitted to the Lifer desk at the prison facility no later than ten (10) days before the Monday of the week of the hearing. The

attorney representing the parole candidate should be sent a copy of the material. This is because the Lifer desk for a number of reasons, often will not forward submitted material to the attorney. If this happens, the attorney should raise an objection to consideration of material that has not been provided to him/her in advance of the hearing. Note: The Lifer Desk (Board desk) maintains all records pertaining to the parole candidate's life crime and CDCR disciplinary history. The Board packet is comprised of seven (7) sections: 1) Cumulative Case History, 2) Board Reports, 3) Psychiatric Reports, 4) Prior Decisions 5) Notices/Responses, 6) Legal Documents , and 7) Miscellaneous. Once the hearing is over – this packet belongs to you.

Offsetting a Parole Candidate's Story

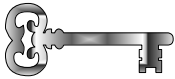
Truth be said, it is often the unfortunate parole candidate who brings to bear his/her own demise in the suitability hearing. It is not uncommon for the parole candidate to build in their minds their own version as to how they committed the life crime. Sometimes a story becomes self-serving at the least and total fabrication at the worst. As time passes, the constant repetition of the parole candidate's version of the events sometimes metamorphoses' "myth into reality" to the extent the parole candidate begins to believe it themselves. The ADA knows the "mythical stories" are often the brunt of what parole candidates express to psychiatrists, and counselors in such a fashion they too fall trap to the parole candidate's attempt to manipulate. A ADA, who is prepared to offer the facts as recorded in the parole candidate's Appellate opinion or POR, understands the importance of exposing a parole candidate's attempts at manipulation. And, this becomes a vital and important part of the parole suitability process. Credibility is crucial to establishing the authenticity in the story you tell about your life crime. Keep in mind that the ADA is trained and will be prepared to offset a parole candidate's "made-up" stories.

Prosecutor Participation in the Hearing

To restate, it is the ADA's role in the suitability hearing to comment on the facts of the case and present an opinion about the appropriate decision. The ADA may be permitted to ask clarifying questions of the hearing panel, but may not render legal advice. In other words, it is the duty of the ADA to assist the panel in showing why you do/or do not present a case for suitability. They are the advocate of the victim, not you, no matter how well you present yourself. Therefore, a parole candidate should not take it personally if denied parole based on the conclusions by the ADA during a parole suitability hearing. The ADA is taught and is continuously trained to argue vigorously against your parole – if you truly lack an understanding into the causative factors of your crime. This will never change, however like State appointed Board attorneys, not all ADA's are unhelpful. The ADA's are trained to look closely at the parole candidate who has truly changed and accepted the detrimental impact of their crimes – to include being able to recognize the importance of having remorse, and who acknowledges the fundamental ideology that underlies the common principle: ***When the spirit of the law is broken with a single criminal act, all society suffers.*** They are looking to see if the parole candidate truly understands this.

On occasion, the ADA may not intend to make a physical appearance at the parole hearing. When this occurs, the parole candidate can expect the ADA of the county of conviction to send a letter to the Board stating the position of the prosecution and reasons for it, especially if they are opposing parole. You should keep in mind that whatever records, files, or evidence used in your criminal court proceedings will be reviewed by the *People's (People of the State of California)* representative. Sometimes the ADA will use video teleconferencing in place of making a physical appearance. Video teleconferencing will usually be held at the District Attorney's Office in the county of your commitment and the VNOK will be present. The hearing panel will receive the live video feed during the suitability hearing. The parole candidate has no say in this process, but if the ADA intends to use police reports and other documentation of previous

alleged crimes committed by the parole candidate (so called “un-charged” acts), this material must be submitted ten (10) days before the Monday preceding the hearing. During the suitability hearing, a parole candidate should expect the ADA to ask the panel to have the parole candidate respond to clarifying questions. These clarifying questions may number in variety and might not be limited only to the facts of the commitment offense. It is the job of the ADA to make sure that the voices of the victims are adequately represented in a determination of the parole candidate’s suitability.



Key thought to Consider: The parole candidate is not allowed to address the ADA, victim’s family, or family advocate directly. When you are providing responses to clarifying questions, remember that your attitude, body language and verbal responses to are being evaluated by the entire panel. DO NOT clench your hands, teeth, or appear agitated in your responses. This will surely project that you pose an unreasonable risk to public safety and it is likely you will leave a negative and lasting impression with the panel during the deliberation process – when the panel recesses to determine your parole suitability. THINK BEFORE RESPONDING!

Parole Suitability Determination and 115’s

Because rules violations are an important factor in parole suitability determination, ADA’s at lifer hearings will make sure that all recent 115’s and force and violence-related 115’s are discussed in the hearing, even if there have been no 115’s since a parole candidate’s last hearing. The ADA will generally ask to have the details of the 115 read into the record (if it is a concern for the ADA), so that reviewers such as the Decision Review of staff at the BPH or the Governor’s legal staff can have all the relevant information in case a parole date is granted by the current panel. The ADA knows that frequently the parole candidate’s version of a 115 is filled with evasions and minimizations; having the 115 read into the record can show an entirely different scenario. At this point, it is likely that the ADA will make comments on this in the closing statements as “*showing a lack of insight,*” “*lack of acceptance of responsibility,*” and “*inability to adhere to the rules in a closed society*” resulting in a finding of the parole candidate being found unsuitable for parole.

Here, the relevance that the ADA relies on with a parole candidate’s institutional records of discipline, becomes particularly important because the language in the 115 might have much more detail about the infraction than just the bare mention of it in the counselor’s report or psychological risk assessment report. The inability of the parole candidate to control behavior to institutional standards does not measure well for the likelihood of successfully completing parole in a free society. You should expect that the ADA will focus on the obvious 115’s that are actual crimes in prison (e.g., possession of drugs or alcohol, weapons, assaults by inmates, etc.), and rely on the parole candidate’s behavior as factors pointing to the parole candidate continuing to commit felonies in prison after incarceration. Such comments will be reflected in the ADA’s closing statement.

Sources and Inmate’s Statements

One of the most important things the prosecutor can do is bring out the details about the crime showing callousness, premeditation, heinousness, and other facts additional victims, added danger to the public (i.e., spraying shots in a residential neighborhood) – over and above the basic facts listed in the Board report or the POR. Often, these facts may be from an Appellate opinion from the case, testimony, and evidence from the trial, sentencing transcripts, the trial prosecutor’s 1203.01 statements, preliminary hearing transcripts, police reports, autopsy reports, letters from law enforcement agencies stating the departments position on parole suitability, and of course, the words from the parole candidate at his/her current or past hearing(s).

Further, the ADA knows the parole candidate's statements to investigators in the police reports are invaluable, as are statements to the Probation Officer, Correctional Counselors, Psychologists, and Psychiatrists preparing for the Board. The ADA will be familiar with all the different versions of the crime the parole candidate has given in order to question the parole candidate about them during the hearing and comment on them in the closing statement.



Note: The ADA knows that over the years most parole candidates minimize their culpability for the crime, come up with new justifications for it, blame it on drug or alcohol intoxication, and generally try to distance themselves from the person who committed the offense.

The Slough File

The transcripts of all prior parole hearings should be available to the ADA. These are usually kept in the "slough file," which is what the CDCR call the folder where miscellaneous information not within the actual physical C-File is kept. The slough file is usually in boxes or on the rolling file carts that the records clerk (or equivalent CDCR personnel) bring into the hearing. The slough file may also contain crime scene photos or autopsy photos that have been submitted by the District Attorney's office. Usually before the hearing begins, the ADA will ask the panel for the slough file and review the materials in it. While the panel is going over the preliminary matters during the hearing, the ADA has the opportunity to review in particular, the parole candidate's statements about the crime, prior prosecutors' questions and closing statements, and the parole candidate's closing statements. The purpose of the ADA's review of the slough file is to look for the parole candidate's inconsistencies and changes in his/her statements over time.

Such inconsistencies, especially if made during parole hearings where the parole candidate has made statements under the penalty of perjury, may be mentioned during the ADA's closing statements. The effect of this is felt by the parole candidate, because once the panel sees a major inconsistency, they are more likely to impose a multi-year denial. Further, the ADA is looking in the slough file to expose the parole candidate who minimizes their culpability in the crime that ultimately occurred, whether it involves prior criminal behavior and/or the current life crime. The prosecutor knows that often inmates will minimize their actual responsibility for the crime at parole hearings. As such, ADA's will generally expect that few parole candidates will admit to the commitment offense and try to minimize their actions. (Example: the parole candidate might say, "*The gun just went off,*" "*it was an accident,*" "*Seriously, I was trying to protect myself...*" and the like. Ultimately, the parole candidate needs to keep in mind the ADA will always discuss such inconsistencies in the closing statement as they call into question the parole candidate's claims of remorse, acceptance of responsibility and suitability for parole.



Note: Criminal history falls into four (4) categories: 1) prior prison terms, 2) prior felony convictions, 3) other convictions, and 4) lack of criminal history. This is very significant because the ADA will be familiar with the parole candidate's criminal history. Your entire criminal history whether current or past is accessible to the ADA; and more often than not through the slough file (See Cal. Code Regs., tit. 15 § 2322 et seq., for additional information on criminal history.

The Prosecutor's Closing Statements

Similar to the closing argument at trial, the ADA will begin preparing the closing statement for a parole suitability hearing before the hearing. However, the hearing may develop additional reasons for opposing parole based upon the parole candidate's statements to the panel and responses to questions raised by the ADA. In most cases, the ADA should be able to give a concise statement of the reasons why the parole candidate is not suitable for parole. Here, the ADA can be expected to provide a brief statement of why a particular life crime is essentially heinous and use an example such as: "*The inmate had multiple opportunities to stop but continued anyway,*" "*...multiple victims were injured or endangered,*" "*...motive*

for the crime was very trivial...” During the closing statement, the ADA will also have the opportunity to comment on the psychological risk assessment report. The ADA may criticize a lack of any risk assessment at all; the findings of the psychologist/psychiatrist about psychopathy (discussed further in Chapter 6), and the general acceptance of the parole candidate’s statements about the crime without thorough comparison of all reports and materials in the C-File, especially if the parole candidate made a Mirandized statement to investigators and confessed to the crime. The ADA may quote from the confession during the closing statement and show how the doctor’s assessment is poorly based (e.g., *“The inmate poses less risk than the average citizen.”*). The ADA may use prior risk assessment reports with sharply differing diagnoses when they contain different versions of the crime.



Note: The ADA will not be hesitant to comment on the conclusions of the risk assessment evaluations. The ADA knows the reports are often based on the parole candidate’s version of the commitment offense - which might be a conflict of the truth. The ADA will be trying to impeach the parole candidate’s statements to the doctor and show that the parole candidate is minimizing culpability.

One of the points that the ADA will draw from will be to point out a parole candidate’s institutional record of no progress, or lack of self-help, therapy, educational/vocational programming, or they may show a failure to comply with previous board recommendations. If the parole candidate has not kept current on previous vocational certificates or has not progressed on raising educational levels, the ADA will note these items for the panel. In the closing statement, the ADA will be permitted to provide an opinion as to why the parole candidate is too dangerous for release. Usually, the panel will prefer about three to five minutes for the ADA’s closing statement, but they are not limited. Because the parole suitability hearing is an administrative hearing and not a court of law, the ordinary rules of evidence do not apply. In any event, this will not stop the ADA from vigorously arguing the cruelty and callousness of the offense and from freely citing to materials sent by the Office of the District Attorney or Attorney General. The ADA’s responsibility is to the victims of crime and to the People of the State of California (*Note: State Prosecutors are not limited to only the State of California*). They will not hesitate to present any victim impact evidence and might state: *“This crime ruined what was left of the victims’ family, caused a break-up, etc. , as the VNOK impact statement shows...”*

The prosecutor has the duty to argue, where appropriate, that the FAD (Forensic Assessment Division) psychiatric report does not support release; the adjustment in prison is below standard; the prisoner has not programmed well, and that he/she has no verifiable job offer. Further, the ADA can be expected to forcefully conclude with reasons why the parole candidate, in the prosecutor’s belief, does not have insight into the commitment offense (claims accidental, self-defense, “not me,” minimizes, blames victims, etc.), and lacking insight, *“...the panel cannot comfortably say that the parole candidate will act any differently should circumstances leading up to the offense reoccur, and thus he/she still represents an unreasonable risk of danger to the public and we believe he/she should be denied parole at this time.”*

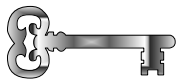


Note: If the ADA feels it is appropriate, they may add: “Given the circumstances, it is not reasonably likely that the prisoner will become suitable for parole in the following (e.g. 3, 5, 7, 10, 15 years under Marsy’s Law), and we therefore ask the panel to find the prisoner unsuitable for parole and defer the further hearing on this matter for the maximum time allowed under the law.”

For the most part, the ADA recognizes that unless a parole candidate can express some acceptance of responsibility and insight into the offense, no date will be given because no finding of suitability can be made. In many murder cases, the parole candidate and the victim were alone. Only the parole candidate is left to tell what truly happened. During the questioning phase of the hearing, if the panel feels the prosecutor’s questions warrant answers, they will ask the parole candidate to answer them. This is normally

done at the conclusion of the hearing just before the ADA's final summation (closing statement). Furthermore, nearly all of the ADA's in the hearing and in the video teleconferencing will likely ask clarifying questions. The questions may range in the numbers of a few to numerous as guided by their *Lifer Hearings* manual. The questions when asked are directed on highlighting the parole candidate's dangerousness. Examples: "Could you please ask the prisoner whether there was any conversation between the victim and the prisoner before he shot Mr. VanWinkle?" "Did that conversation occur while the prisoner was driving to a remote area?" "Did he plead with his life during the ride?"

The ADA is trained to explore the circumstances of the actual crime with the parole candidate, including the victim's reaction just before the murder. The ADA realizes that this line of questioning many years after the crime can make the parole candidate appear extremely uncomfortable and help demonstrate for the panel the parole candidate's unsuitability. It is very important that the parole candidate understand that the ADA is simply doing the job the People of the State of California have entrusted him/her to perform. It is the job of the ADA to stress the strong points that may have been overlooked or minimized by the panel. In doing so, the ADA will be more effective than just reiterating or repeating what the Board panel already knows, has discussed and will consider.



Key Point to Consider: The ADA is not allowed to cross-examine or argue with the parole candidate. Remember, the parole suitability hearing is non-adversarial. They are not allowed to attempt to retry the case. The Board accepts that the parole candidate did the crimes for which he/she was convicted. The ADA will however ask clarifying questions that speak to the issues they believe are important.

Concluding the Closing Statement

After the discussing all the reasons for denial of parole, the ADA may conclude with a recommendation for a multiyear denial. In most cases this is to be expected. If the parole candidate received current sentences for other crimes the ADA will note for the panel that, "...the BPH regulations state that additional terms "should be assessed" for concurrent sentences and added to whatever term is determined from the matrix used in calculating an inmate's parole date if parole is ever granted. Seven years or eighty-four (84) months are to be added for a concurrent life sentence, and one-half the determinate term sentence will be assessed for a concurrent determinate sentence." In constructing the closing argument/statement, the ADA when appropriate, will use a variety of effective language skills to assist the panel in a finding of unsuitability. ADA's are trained to use verbiage (language) that the panel prefers that is not simply parroting back the language in the Title 15. The ADA is advised to follow the general outline in the District Attorney Lifer Manual, using stronger, more emotional words such as, "cold blooded," "shocking," "turns my stomach," "rotten," "miserable," "etc.." In concentrating on the commitment offense, the ADA is further mindful to make sure that the crime and its victims are not forgotten in the ever-thickening mist of time. The terms below are taken from a form used by the Board of Parole Hearings in tailoring its decision. The same terms are used by the ADA to further assist in constructing their legal arguments against why the parole candidate should not be found suitable for parole.

Psychological Factors:

- ❖ The offense was carried out in an especially heinous, atrocious, cruel, and callous manner;
- ❖ The offense was carried out in a manner that exhibited a callous disregard for the life or suffering of another;
- ❖ The offense was carried out in a dispassionate and calculated manner;
- ❖ Multiple victims were (attacked) (injured) (killed) in the (same) (separate) incidents;
- ❖ The victim was (abused) (defiled) (mutilated) during the or after the offense; and
- ❖ The murder of the victim did not deter the prisoner from later committing other criminal offenses.

Previous Record – The Prisoner has:

- ❖ A record of violence or assaultive behavior;
- ❖ An escalating pattern of criminal conduct and violence;
- ❖ Previously sexually assaulted another person;
- ❖ A persistent pattern of tumultuous relationships and criminal behavior that commenced at an early age;
- ❖ An unstable social history;
- ❖ Failed previous grants of (probation) (parole) and cannot be counted upon to avoid criminality;

- ❖ The prisoner has failed to profit from society’s previous attempts to correct his/her criminality. Such attempts include the following:
 - *Juvenile probation*
 - *Juvenile camp*
 - *C.Y.A. commitment*
 - *County jail*
 - *Prior prison term*
 - *Parole*

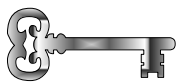
- ❖ The prisoner has an unstable social history and prior criminality includes ...

Institutional behavior: The Prisoner has:

- ❖ Participated in a limited manner in programs while incarcerated;
- ❖ Failed to develop a marketable skill that can be put to use upon release
- ❖ Failed to upgrade (educationally) (vocationally) as previously recommended by the BPH
- ❖ Not participating in beneficial self-help or therapy programs
- ❖ Failed to demonstrate evidence of positive change. Misconduct while incarcerated includes...
- ❖ Continued to misbehave while incarcerated, thereby causing placement in special housing where program participation is limited and the ability to demonstrate parole readiness is hampered – other...

Psychological factors:

- ❖ The psychological/psychiatrist report(s) ... is/are (unfavorable) (non supportive of release) (contradictory) (inconclusive) ...



Key Point to Consider: Other information may include past mental state, past or present attitude toward the crime, any other relevant, reliable information or circumstances if taken alone, may not firmly establish unsuitability but may contribute to a pattern that result in unsuitability.

Penal Code Section 1203.01 Statements

Prosecutors have a responsibility to ensure that the inmates they have convicted of crimes warranting a life sentence remain incarcerated as long as those inmates pose an unreasonable risk of danger to society. To meet this responsibility the district attorney must prepare a statement of view as authorized by Penal Code section 1203.01. In general, the penal code provides a method for prosecutors to state their

“views respecting the person convicted or sentenced and the crimes committed.” The statement is filed with the court clerk who forwards it to the California Department of Corrections and Rehabilitation (CDCR). The ADA understands the importance of this because it remains in the parole candidate’s file for the duration of the commitment. Penal Code section 3046 states that the Board shall consider the Penal Code section 1203.01 statements made by the ADA in determining whether or not to grant parole. This section also requires the Board to consider the statement of the judge, sheriff, but not the defense attorney, each of whom is permitted to file a Penal Code section 1203.01 statement.

When filing the Penal Code section 1203.01 statement, the prosecutor is to ensure that the statement of view provides reliable, comprehensive information. The Prosecutor must make sure the statements are in good faith and contain factual bases for their assertions. Usually the prosecutor will state facts not brought out in the POR. If possible, the statement of view will include the parole candidate’s trial testimony. The ADA’s statement of view provides prison counselors, psychiatrists, corrections officers, and ultimately, the Board of Parole Hearings reliable and accurate information that assists them in assessing the parole candidate’s level of risk and suitability of parole.

The Board’s commissioners consider these statements very important, particularly twenty (20) years after the commitment offense. They place great weight on them. Unless a statement of view has been filed, the usual version of facts available to the panel primary consists of a scant summary from the POR or Appellate opinion and the parole candidate’s self-serving account of the crime(s). In the view of the ADA and Board, the trial prosecutor’s statement of view, written shortly after trial, provides a permanent, credible record to counter the parole candidate’s often distorted version of the crime(s).

ADA Strategies in Supporting/Defeating Suitability

- **Looking at the details:** If only one, or none, of the tests are included in a risk assessment evaluation, the ADA is likely to argue that, “...the evaluation is incomplete and based on a purely subjective (one-sided) assessment...” If the doctor did use the tests, and still concludes the parole candidate is low – or no-risk if released, expect the ADA to evaluate the information upon which the doctor relied. Often, the ADA will know that the doctor does not have, or does not review, all police transcripts, probation reports, including juvenile reports, and court transcripts. If this appears to be the case with an otherwise well-reasoned report, the parole candidate should be prepared for the ADA to point out that the report is based on incomplete information – especially if it seems based on the parole candidate’s “self-serving” accounts. After reviewing all the reports at his/her disposal, the ADA may argue any inconsistencies and discrepancies, and any variation between the parole candidate’s versions then, now and in the years he/she has been incarcerated.
- **Discussing the Life Crime:** Every good risk assessment report should contain a thorough discussion of the life crime with the parole candidate. If a thorough discussion is not included in the risk assessment or if the discussion is present and superficial (hasty), the ADA may argue that it cannot be the basis of risk management. The ADA is already suspicious in cases where a parole candidate refuses to discuss the life crime with the doctor and will almost always infer that this is a clear indication of no insight or remorse. The ADA is taught that when parole candidates do discuss their crimes, they will almost always deny, minimize, or blame others for what happened. When the parole candidate lacks exploration of his/her feelings about why he/she committed the crime, be prepared to have the ADA point out these exclusions as proof of insight or remorse. If the risk assessment report does not support parole and it is in-depth, fact-based, and well reasoned, the ADA will use the evaluations as target point in their argument. In such cases, the ADA expects your attorney to ask for a new report and may accuse him/her of ‘doctor shopping,’ in hopes of finding an eventual favorable report. The ADA is specifically looking for the parole candidate who had frequent opportunities for new risk assessment reports and may assume that parole candidates with such a history of “shopping” have learned to shape their answers to please

the doctor. Regardless, the ADA does not expect that the hearing panel may order a new report anyway unless risk assessment protocols have been revised by the FAD. The best advice: keep it simple and consistent.

- **Specific Diagnoses Point to a High Risk of Violence:** The ADA is expected to argue that specific diagnoses in the risk assessment report point to a high risk of violence. Some of these specific diagnoses can be interpreted from the Axis I, Axis II, and the GAF (Global Assessment of Functioning) tools. 1) If the parole candidate is shown to have an Axis I diagnoses, this suggests that the parole candidate has been diagnosed as having a mental disorder (substance abuse – schizophrenia). The ADA can be expected to read the elements of the Axis I diagnoses and point out the parole candidate will require a life long care, treatment, medications, or other conditions to prevent relapse. Thus, a parole candidate should be careful about requesting or being placed on CCCMS, EOP, under the Mental Health Delivery Systems (MHSDS) of the CDCR. The ADA in his/her review of this factor may only see that the parole candidate requires mental health care in prison. 2) In Axis II diagnoses, the ADA is taught that convicted murderers and kidnappers will frequently have an Antisocial Personality Disorder (ASPD). If this is stated in the parole candidate’s risk assessment report, you can expect the ADA to argue that the parole candidate is a psychopath and that he/she can never truly change because psychopaths are “hardwired” in a way that makes them oblivious to consequences. 3) Finally, in the GAF score, the ADA recognizes that usually parole candidates will be given a GAF score. Roughly translated, the higher the GAF score – the better the parole candidate is doing. Scores that are in the range of 80-85 or higher, mean that the parole candidate is stable; scores of 70 (or below) means he/she is not functioning well.

In the end, a comprehensive, well written risk assessment report, that evaluates the parole candidate based on all the facts will be very helpful and useful to the ADA opposing/or supporting parole. Even if the report supports parole, the ADA may seek flaws or limitations present in the report that might be important. Remember, the ADA will likely view an inadequate report as one that accepts the parole candidate’s story as absolute truth and criticize even the most candid version of a parole candidate’s story in any risk assessment report. The ADA’s are taught to learn basic facts about the mental disorders and risk assessment tools to be more effective in their summation. Sometimes, an ADA may simply view that the parole candidate is “...still too wound up...” and oppose parole merely on that basis after reviewing all the reports. So remember, it is up to you to establish that you no longer pose a risk to public safety and that you can be found suitable for parole. Only you can change the course of the ADA’s view in your determination to be found suitable for parole.

It is not surprising that if it appears the parole candidate may be granted a parole date, either by submitting the matter for the Board’s determination or affirmatively recommending parole, the ADA will generally base his/her recommendation on the matrices set forth in title 15 of the California Code of Regulations which are used to determine the actual time the parole candidate will serve. The ADA may also recommend an aggravating and mitigating term, based upon the facts of the case. Aggravating and mitigating factors are generally listed in the current Board report prepared by the Correctional Counselor I, and are usually taken from the POR, especially obvious aggravating factors about the crime and the parole candidate (e.g., was the prisoner on probation or parole at the time of offense... did the prisoner have poor performance on parole or probation...).



Note: Panel commissioners can find at their discretion that a parole candidate expresses genuine remorse and has significant stress related factors that contributed to the life crime even if the psychological risk assessment state otherwise. This does not necessarily mean that the panel finds either aggravating or mitigating factors when setting terms outlined in the matrix. Further, Board panels are now required to set base terms using the applicable matrix for the life crime. If the panel does not find that there were any mitigating or aggravating factors present in the life crime, the base term will be calculated by applying the middle scale of the term matrix.

Chapter Five

Analyzing Your Hearing Readiness

Overcoming the Fears of Board Preparation

For many parole candidates preparing for the parole suitability hearing can often be a daunting, confusing, challenging period leading to stressful fears. In working this book, you will come to realize and understand it IS possible to overcome the fears associated with parole hearing preparation. Think in terms of the fabled story the “Wizard of Oz.” Many of us are aware of the story. In general, Dorothy (the lead character from Kansas) is transported to the Land of Oz by a Kansas Tornado. When Dorothy reaches the Land of Oz, she embarks on a journey to find her way home. Along her journey to return home she encounters the Scarecrow, Tin-Man, and the Cowardly Lion. When all four eventually reach the Emerald City, and eventually appear before the Great Wizard of Oz, Dorothy becomes frightened by the presence of the loud frightening voice and ominous figure of the assumed Great Wizard. But, when her little dog “Toto” pulls away a curtain in the room, she is able to see who is actually behind the curtain, a little old man standing on a wooden stool working mechanical gears and levers to activate the smoke and mirror images she was being fearful of. In that moment, the fear she was feeling melts away as she realizes the Great “frightful” Wizard of Oz was nothing more than a meek, balding little old feeble man. When Dorothy begins to see that she no longer has to feel afraid of the Great Wizard because he was just as normal as she was – a human being, Dorothy finds the courage to overcome her fears of being before the “Great Wizard,” and simply listens to the little old man who expresses to Dorothy in a gentle and compassionate voice that home was always there for her to go back to – all she had to do was believe...

The point of the above story is to show the parole candidate that even if the parole candidate has the view that the parole hearing is a fearful bridge to regaining lost freedom, it is no more ominous than the “Great Wizard of Oz.” In overcoming this fear, a parole candidate needs to learn how to be positive in his/her preparation and presentation to the hearing panel. Like in the story of the Wizard of Oz, the hearing panel is also comprised of people such as yourself. The panel members are not Gods and they cannot perform miracles or grant powers beyond their control. They have one responsibility: to determine whether or not you, the parole candidate, is suitable for parole. Now, the secret to facing the Board panel is to simply learn how to understand the Board’s complicated written criteria and procedures – having knowledge of even the basic suitability hearing mechanics, will afford each parole candidate an opportunity to believe that regaining his/her freedom is possible – all you have to do is believe.

By now you should know that the governing criteria and guidelines for the life term prisoner who falls under the ISL category is found in the California Code of Regulations, Title 15, Division 2. The parole candidate does not have to be lawyer minded or have an elevated education to know the process and expectations of the Board. The parole candidate only has to be willing to apply him/herself and recognize the basic concepts that will assist in understanding what expectations are followed and reviewed by the Board in the lifer hearing process. A good rule of thumb is: “if you don’t know – ask.” You can’t be afraid to take that leap to unscramble the meanings that lie behind the lifer hearing rules and regulations.

Preliminary Matters

A parole candidate shall be considered for parole for the first time at his/her initial parole suitability hearing. At this hearing, a parole date shall be denied if the prisoner is found unsuitable for

parole under § 2282(c). A parole date shall be set if the parole candidate is found to be suitable for parole under § 2281(d). A parole date set under this section shall be set in a manner that provides uniform (same) terms for offenses of similar gravity and magnitude in respect to the threat of the public. In setting the parole date, the panel shall consider the Sentencing Rules for the Superior Courts as they specifically relate to the life prisoners. The panel shall also consider criteria and guidelines set forth in this article for determining the suitability for parole and the setting of parole dates, considering the number of victims of the crime for which the parole candidate was sentenced and any other circumstances in mitigation or aggravation.

When the hearing begins, the presiding commissioner firsts put the case factors on the record (into the transcript format). The case factors are the commitment offense and other non-controlling offenses, the case numbers, County of commitment and the parole candidate's name and number. All parties then identify themselves for the record, spelling their last names. The Commissioner then goes over the parole candidate's rights under *Armstrong v. Davis* (9th Cir. 2001) 275 F3d 849 (required accommodations for disabled prisoners under the *Americans with Disability Act*). Finally, the commissioner reviews the parole candidate's rights, and rules on any objections made by the parole candidate through his/her attorney. At the beginning of the hearing itself the parole candidate has the burden of proving that panel or any member is not impartial. In the panel's determination of the parole candidate's suitability, the panel shall first determine whether the parole candidate is suitable for release on parole. Regardless of the length of time served, a parole candidate shall be found suitable – unsuitable, for and denied parole if in the judgment of the panel the parole candidate will pose an unreasonable risk of danger to society if released from prison.



Note: The Subsequent Parole Hearing – Essentially there is no difference between the initial and subsequent hearing. At the subsequent hearing each parole candidate who was previously denied parole shall be reconsidered for parole in the same manner as at the initial parole hearing. The hearing panel shall consider the same information developed since the last hearing. If the parole candidate has suffered a multiyear denial, in which the panel has denied a subsequent parole hearing for more than one year, it shall utilize the criteria specified in Cal. Code Regs., tit. 15 §§ 2281 or 2402, as applicable.

The Board is mandated to make specific written findings stating the bases for their decision to defer the subsequent suitability hearing for any period that defers a parole hearing from one to fifteen years (See Prop. 9 Marsy's Law, which remains in effect for life prisoners convicted of their crimes pre- Marsy's Law and until such time it is determined by a High court ruling that Marsy's Law is unconstitutional). If the Board defers a suitability hearing for five years, the parole candidate's C-File shall be reviewed by a deputy commissioner within three (3) years at which time the deputy commissioner may direct that a hearing be held with one (1) year if the parole candidate has been disciplinary free and programming in accordance with Board direction since the last hearing. The parole candidate will be notified by the deputy commissioner once a decision has been rendered (See Chapter 9 for additional information on subsequent parole hearings and filing a petition to advance a hearing (BPH-1045(A))).



Note: As of this edition new review of three (3) year denials is automatic when a life prisoner is denied parole suitability. This is discussed more thoroughly in Chapter 9.

Factors to Unsuitability and Suitability

The following circumstances each tend to indicate **unsuitability** for release. It should be noted that the following circumstances are set forth as general guidelines; the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the hearing panel.

1. **Commitment offense:** The parole candidate committed the offense in an especially heinous, atrocious, or cruel manner. The factors to be considered include:
 - Multiple victims were attacked, injured, or killed in the same or separate incidents;
 - The offense was carried out in a dispassionate and calculated manner, such as an execution-style murder;
 - The victim was abused, defiled, or mutilated during or after the offense;
 - The offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering; and
 - The motive of the crime is inexplicable or very trivial in relation to the offense
2. **Previous record of violence:** The parole candidate, on previous occasions, inflicted or attempted to inflict serious injury on a victim, particularly if the parole candidate demonstrated serious assault behavior at an early age; a valid precursor for predicting such actions continuing.
3. **Unstable social history:** The parole candidate has a history of unstable or tumultuous relationships with others.
4. **Sadistic sexual offense:** The parole candidate has previously sexually assaulted another in a manner calculated to inflict unusual pain or fear upon the victim.
5. **Psychological factors:** The parole candidate has a lengthy history of severe mental problems related to the offense.

The following circumstances each tend to indicate **suitability** for release. Similar to the above, the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the hearing panel.

1. **No juvenile record:** The parole candidate does not have a record of assaulting others as a juvenile, or committing crimes with a potential of personal harm to victims.
2. **Stable social history:** The parole candidate has experienced reasonably stable relationships with others.
3. **Signs of remorse:** The parole candidate's performed acts which tend to indicate the presence of remorse, such as attempting to repair the damage, seeking help for or relieving suffering of the victim, or indicating that he/she understands the nature and magnitude of the offense.
4. **Motivation for the crime:** The parole candidate committed his/her crime as the result of significant stress in his/her life, especially if the stress had built over a long period of time.
5. **Battered Woman Syndrome:** At the time of the commission of the crime, the parole candidate suffered from Battered Woman's Syndrome; it appears the criminal behavior was the result of the victimization.
6. **Lack of criminal history:** The parole candidate lacks any significant history of violent crime.
7. **Age:** The parole candidate's present age reduces the probability of recidivism.
8. **Understanding and plans for the future:** The parole candidate has made realistic plans for release or has developed marketable skills that can be put to use upon release.
9. **Institutional behavior:** Institutional activities indicate an enhanced ability to function within the law upon release.

Discussing the Life Crime

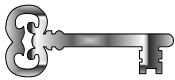
Discussing the life crime in a parole suitability hearing is sensible only if you are willing to do so and an actual interest, such as clarifying your limited role in the crime. Remember, do not minimize your own behavior or blame others at this point, but do mention mitigating factors (such as long term stress), explaining your insight and understanding of the contributing aspects or when you have the support of the victim's family and/or district attorney's office. Absent these benefits, discussing the crime merely gives the hearing panel and ADA the opportunity to ask questions that usually are intended to elicit unfavorable information and/or make you look untruthful and unsuitable for parole. Extended discussion of the facts of

the case should be avoided if it will lead to impeachment by the hearing panel or ADA with prior inconsistent statements or contrary eyewitness or expert testimony.

As earlier mentioned, you have the right not to discuss the facts of the crime and the Board is prohibited by law from holding the decision against you. Unfortunately, the Board often interprets a refusal to discuss the crime as a failure to demonstrate remorse and insight. However, admitting the facts of the crime and expressing remorse and insight are separate matters, and remorse and insight can be expressed without discussing the facts of the crime. Therefore, it is particularly important for those who choose not to discuss the crime to do at least one of the following:

- Discuss remorse and insight through your attorney so that the hearing panel does not conclude that you lack remorse or fail to understand why the crime occurred;
- Advise your attorney to convey your remorse and insight to the Board, or,
- Make a closing statement to the hearing panel in which you address remorse and insight. Another alternative would be to stipulate to the official facts and version of the offense. In exercising the first option, this can be accomplished by your attorney asking you questions and eliciting your responses demonstrating remorse and insight. (this is discussed more thoroughly in Chapters 6 and 10)

The **second** option is achieved by your attorney discussing your mental evaluations in which the psychologist concludes you express genuine remorse and insight, as well as discussion of your comments in the psychological report demonstrating remorse and insight. The **third** option is accomplished when the parole candidate presents his/her own statement (closing impact statement) to the Board at the end of the hearing in which he/she expresses remorse and insight. Remember, it is important for the parole candidate to discuss with his/her attorney, the pros and cons of revealing the factors that lead to committing the life crime, prior to the hearing and use all of the above options for exhibiting insight and remorse. You should feel comfortable with your attorney and provide articulated descriptions to him/her about what you have done, and steps you have taken to improve yourself in your preparation for the suitability hearing.



Key Point to Consider: *When filing a petition to advance a hearing date (BPH-Form 1045(A), the Board must consider the merits of the request. Just as prisoner must explain his/her acceptance of responsibility and convey his/her remorse at a parole hearing, a prisoner can, in a request for advance hearing, explain that he/she has accepted full responsibility for his/her crime and convey his/her remorse (See Gilman v. Schwarzenegger (2010) 638 F.3d 1101).*

The Three Stage Hearing Process

Stage 1: Commitment Offense - After the preliminary matters are taken care of, the presiding commissioner puts on the record the facts of the commitment offense, using the facts stated in the POR. The panel takes as true, the appellate court's factual findings or, if there are none, the statement of facts in the POR. The parole candidate may refuse to admit guilt or to discuss the facts of the crime; any refusal may not be held against the parole candidate.



Note: WARNING: Experienced attorneys disagree on whether it is advisable for the parole candidate to exercise his/her right not to admit guilt of a crime of which he/she was convicted. Some attorneys believe that parole candidates who fail to discuss their culpability in the commitment offense have virtually no chance of a finding of "suitable for parole." Other attorneys believe that the parole candidate has no obligation to discuss the crime, and doing so can only create further questioning by the panel which will ultimately be used to deny parole. However, because the Board panel has almost limitless discretion in determining a parole candidate's suitability for parole, it would be all but

impossible to establish that a finding of unsuitability was improperly based on the parole candidate's decision to exercise his/her rights under Penal Code section 5011(b).

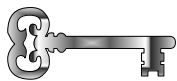
A parole candidate who does agree to discuss the facts of the crime should be prepared to be cross-examined and asked to clarify questions about the life crime by the hearing panel and the ADA, if one is present. Whether or not the parole candidate chooses to discuss the facts of the crime, the panel must attempt to determine the extent of the parole candidate's personal culpability. As stated, some attorneys advise the parole candidate not to discuss the commitment offense if other deficiencies indicate the granting of a date is unlikely. There are two reasons: First, prisoner testimony about the offense or related matters will be used in subsequent panels to impeach the parole candidate and may cause irreparable harm. A parole candidate's testimony is particularly dangerous at an initial hearing because the parole candidate is generally unfamiliar with the procedure and may be particularly stressed and is unlikely to receive a date in any event. Testimony in such circumstances cannot benefit the parole candidate in future hearings, and it may do a great deal of harm.



Note: *As of this edition it is reported that in 2013 forty (40) initial hearings resulted in a finding of suitability for parole (Life Support Alliance, Vol.5 Issue 4, April 2014).*

Second, as a general rule hearing panels and the ADA view any sanitizing (minimizing) of the facts or refusal to accept complete guilt as failing to come to grips with the commitment offense, and as lacking remorse and insight, making the parole candidate an unsuitable candidate for parole. If other factors suggest that there is a realistic chance of getting a parole date, the attorney representing the parole candidate should consider advising his/her client on the pros/cons of discussing the commitment offense. The general trend is that if a parole candidate does not discuss the life crime in detail, it may be detrimental to the parole candidate being found suitable for parole. To note, parole has been granted in circumstances where the parole candidate discussed the offense at previous hearings, but not at the hearing where the hearing panel granted parole. During the hearing, this is where it is appropriate for the parole candidate to discuss their understanding of the commitment offense and express remorse for his/her actions by demonstrating a complete awareness of the factors that led to the commission of the offense and its ramifications (impact). If the parole candidate chooses to discuss the life crime, the attorney should advise the parole candidate that it is essential to be unflinchingly self-critical in discussions of his/her criminal past and the circumstances involving the life crime.

It goes without saying that when discussing the commitment offense, it becomes critical to use direct and honest language. The parole candidate should avoid the use of words or phrases that suggest even in the slightest degree minimization of the past or shifting blame to a co-defendant or the victim. Any failure to admit established elements of the crime will be seen by the ADA and panel as a failure to come to grips with the commitment offense and as negating any expression of true remorse. The panel will further consider prior convictions and social history, actually citing reliably documented criminal behavior that did not result in a conviction. So called "un-charged" acts are rarely allowed in court, but can be presented in a suitability hearing. Police reports of *alleged* domestic violence, bar fights, and even simple theft allegation reports containing your name can be presented to the Board. Finally, the panel considers the parole candidate's social history, including, but not limited to: family background, relationship with family members, education, military service, drug and/or alcohol abuse, and psychological issues.



Key Point to Consider: *If the hearing panel attempts to rely on police reports to deny suitability for parole, the parole candidate's attorney should argue that arrest reports are not reliable enough to support a finding of [un]suitability (See U.S. v. Bell (8th Cir. 1986) 785 F2d 640, 644.)*

Stage 2: Institutional Adjustment – The stage of the hearing covers institutional behavior and adjustment. The deputy commissioner conducts this part of the hearing using the parole candidate’s C-File record for

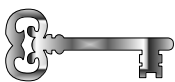
referencing. Keep in mind that C-File records are now kept in an electronic file and can be accessed by computer during the hearing. The panel presumes that the parole candidate’s conduct in prison reflects potential rehabilitation (or not), thus in-prison conduct presents a serious problem to the Board. Specifically, the panel looks at the parole candidate’s disciplinary history; participation in self-help and therapy groups (e.g., programs addressing addiction, victim awareness groups, prisoner-youth prevention groups, anger management, stress reduction), education and career technical education/vocational upgrading, performance in work assignments, current psychological and Board reports, laudatory chronos and any other relevant information about the parole candidate’s incarceration. The institutional adjustment portion of the hearing typically addresses five factors (“compliance” areas”) in which the parole candidate must demonstrate progress in order to obtain a parole date: Education, Career Technical/Vocational Education, Self-Help, Psychological Reports, and Disciplinary History.



Note: A sixth mandatory compliance area, “parole plans” is addressed in the third stage of the suitability hearing.

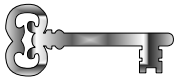
Compliance Area Breakdown:

- **Education:** A parole candidate must obtain a least a High school equivalency (either a GED or a High school diploma is sufficient) if he/she is capable of doing so. Additional higher education is viewed positively, but is not a determining requirement.
- **Career Technical/Vocational Education:** The parole candidate must generally complete a vocational training program within an institution. In other words, during his/her time in the custody of the CDCR, the parole candidate is expected to complete training in a recognized trade (e.g., mill and cabinet making, refrigeration, auto body, auto paint, office services/computer technician, janitorial maintenance, etc.). If the parole candidate was an experienced professional or had a recognized skill before the commitment offense, the requirement may be waived. The elderly life prisoner is still advised to include employment offers or plans, if capable of doing so. In addition, some parole candidates of advanced age who are not likely to obtain employment on release and who can indicate prospective income from Social Security benefits or Veterans benefits may have the requirement waived. In addition, one or more job offers from relatives with offers to train the parole candidate may suffice in individual cases. Multiple vocations and/or career technical completions are also regarded positively.



Key Point to Consider: In past (2009), the CDCR lost rehabilitation programs through reductions in education, vocational, substance abuse and other programs for prisoners due to State budgetary constraints. If this impacted you from completing a self-help program during the period when programs were not available or limited, it is advisable for a parole candidate to consult with his/her attorney on how best to address the lack of available rehabilitation programs before appearing at his/her suitability hearing.

- **Self-Help:** Parole candidates are expected to avail themselves (take advantage of) all available self-help programs. Given the general unavailability of individual or group psychotherapy, it is a common expectation for the parole candidate to attend rehabilitation group programs. The most common groups are Alcoholics or Narcotics (AA/NA), but there are also other meaningful groups and/or programs that deal with anger and stress management, violence prevention, youth diversion life skills development, victim’s awareness, etc.. The availability of such programs varies from prison to prison.



Key Point to Consider: During the suitability hearing, the parole candidate should expect to be questioned about his/her understanding of the basic principles of the programs and how she/he has

incorporated these principles into their daily life. If the parole candidate's life offense involved drugs or alcohol, the panel expects the parole candidate to participate in substance abuse prevention counseling and to have concrete plans for substance abuse counseling in the community if paroled. Strong parole candidates have information about programs in their communities and may already have AA/NA sponsors or other support systems available to them outside the prison.



Note: If institutional programs are limited or if there are specific issues such as domestic violence in the parole candidate's past and no groups in the prison address the issue, the parole candidate should seek counseling materials from the community and prepare documentation to provide to the panel in the form of a report that outlines the materials studied, including the basic principles presented in the materials and their effect on the parole candidate. Remember, to keep records of your attempts to seek out self-help programs.

- ***Psychological reports:*** Hearing panels want to know what, if any, psychological issues were involved in causing the commitment offense and what, if anything, is currently troubling to the parole candidate. The likelihood of the parole candidate's potential to addictive behavior, if such actions had a bearing on the commitment offense, should be extensively addressed, and describe what efforts the parole candidate has taken to ensure permanent positive changes. A clinician's opinion of the parole candidate who is found to have a high risk of future dangerousness is unlikely to be paroled (See Chapter 6 for more information on preparing for the psychological risk assessment(s)).
- ***Disciplinary History:*** The parole candidate must attempt to remain disciplinary free for his/her entire period of incarceration. At a minimum, the parole candidate should be disciplinary free for at least five (5) years before the suitability hearing and if possible longer – depending on the nature, frequency and seriousness of previous disciplinary actions. Although classification scores are not considered at the hearing, the parole candidate is expected to have lowered their custody level (if possible) and classification score of less than 59 points – the new point level for Level III placement.

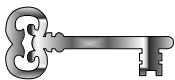


Note: Depending on several CDCR institutional factors, a parole candidate can reduce his/her classification score by only 4 – 6 – 8 points a year. A common Board determination is that a Level IV classification score does not impact a finding of suitability. It is frequent, Level IV parole candidates with classification scores that exceed 100 points have been found suitable for parole. Your positive programming becomes essential to supporting the presentation of your parole plans.

Stage 3: Parole Plans – After institutional adjustment is considered, the panel considers the parole candidate's plan for residence and support after release. Ordinarily, parole candidates are paroled to the County in which they resided (or convicted in) at the time of the commitment offense, but the parole candidate may be paroled to another County if it is in the parole candidate's or the public's best interest. Also, under the Interstate Compact for Adult Offender Supervision (ICAOS), California can request transfer of a paroling offender to another State up to 120 days before the planned prison release date. Generally, out-of-state transfers occur after the parole candidate has been granted parole, thus, if the only support is outside California, then the parole candidate should find a transitional living arrangement such as a community half-way house.

The parole candidate should always submit a plan for parole within California. Also, if the parole candidate has out-of-state parole support, the parole candidate should submit multiple parole plans. The parole candidate should also obtain and submit information about the viability of an out-of-state transfer through the Interstate Compact Agreement. It is presumed that the parole candidate will be paroled to the County of last legal residence, which is usually the committing County. However, the Board can parole the parole candidate to the County where he/she is most likely to succeed on parole. The parole candidate should submit both residence and employment plans for any jurisdiction to which he/she intends to be paroled. Parole candidates with immigration holds should first determine whether or not they are certain to be deported.

If deportation is certain, the parole candidate should submit parole plans for the Country of deportation. If there is a question whether he/she will be deported, the parole candidate should develop parole plans for both in California and in the Country of deportation. At a minimum, the parole plans should include an offer of residential placement and a job offer. These offers should be in the same geographic area, and, if possible, within commuting distance of one another. Although the regulations require “marketable skills,” keep in mind the strongest parole candidates will have employment offers. The Commissioner usually goes over the parole candidate’s support letters, making them part of the record, and sometimes discusses the letters with the parole candidate. During this section of the hearing the parole candidate should also be prepared to discuss his/her intentions about continuing self-help or therapy groups (e.g., AA/NA, counseling, church, etc.) on release, and should demonstrate knowledge of specific programs available in the community to which the parole candidate expects to be released.



Key Point to Consider: All parole candidates should consider drafting a relapse prevention plan that describes a sobriety network, how they intend to continue recovery, and problem solving skills for relapse prevention (i.e., identify triggers, warning signs, etc.) It is important that the parole candidate is able to articulate a clear, achievable goal that helps him/her get through the day. (See Chapters 2 & 9 for further information on writing/cultivating parole plans).

Concluding Matters

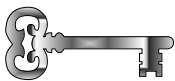
After presenting evidence on the offense and other pre-commitment factors, the parole candidate’s prison record, and future plans, the presiding Commissioner goes over letters from interested parties. The Penal Code requires the Board to send notification of a parole suitability hearing to the trial judge, the parole candidate’s trial attorney, the prosecuting attorney, the investigating law enforcement agency, and in the case of a murder of a peace officer, the employer of the victim, at least 30 days before the hearing, and give those entitled to notice a right to submit a statement of views on the parole candidate’s release to “any person interested in the grant or denial of parole.” These letters usually oppose a finding of suitability.

- ***Clarifying Questions:*** Prior to summations, the commissioners, ADA, and the parole candidate’s attorney can ask clarifying questions. By listening to what the panel says at the hearing, the attorney should be able to correct errors in their understanding of the facts of the crime, prior criminal background and in-prison behavior/accomplishments. The attorney can also give the parole candidate an opportunity to address the subject of remorse for the offense that led to commitment and for his/her involvement in other crimes or activities that produced victims. It is essential that the parole candidate discuss both remorse and insight into the cause of his/her criminality in real terms, avoiding empty generalizations. The parole candidate has the right to ask questions, but this right is rarely exercised.

- **Summation:** At the end of the hearing, the ADA from the County of commitment, or his/her representative, if present, gives a summation of the People's (the government as the public's representative) position and, if the People/ADA oppose parole, the length of denial that should be given. This is followed by the parole candidate's attorney summation. If the ADA makes claims that the parole candidate's attorney cannot verify as accurate, the parole candidate's attorney should query the parole candidate about the accuracy of the ADA's closing statements. Rebuttal to such claims should be incorporated in the attorney's closing statement/argument. The parole candidate's attorney should be able to tell the panel why the parole candidate should be paroled and if denied, how many years a deferral period of parole should be imposed.
- **Statements by Victims / VNOK (Victim's Next of Kin):** After closing statements from both sides, but before deliberation, the victim, VNOK, or family members that are VNOK, may make a statement of their views on any crimes with personal injuries, the life crime and the person responsible for these crimes, and the parole candidate's suitability for parole.
- **The Decision:** Finally, the panel adjourns to consider the matter and then returns to announce its decision on suitability. If the panel finds the parole candidate suitable for parole, it must then set a term. If the panel does not find the parole candidate suitable for parole, the panel is now required to set a base term date. (An anticipated expectation of the number of years the panel expects the parole candidate to serve before being considered for suitability for parole) Remember: a base term date DOES NOT ESTABLISH A PAROLE DATE. It merely represents a best guess by the hearing panel, based on the elements set forth in the matrix that best fits the aggravating/mitigating factors of your life crime.

Elements to Suitability: Preparation & Impression

In broad spectrum, there exist two (2) main elements to being found suitable for parole, 1) preparation, and 2) impression. Having this awareness it makes sense that the parole candidate would want to be better prepared and make a good impression in the initial hearing rather than being unprepared, making a poor impression and receiving a lengthy denial. I know that some may question "Why should anyone bother to prepare for the first hearing (initial) if there is virtually no chance at being found suitable for parole? Well, as stated above the trend shows that more lifers appearing at their initial hearings have been receiving parole dates. The other reason is that there are always possibilities that the Board's policies can change in the future as a result of court decisions, pressure from the public, the addition of new commissioners with more liberal views on parole, or practical considerations such as over crowding, etc. In a final analysis, isn't doing something much better than doing nothing? Preparation provides the possibility those self-help courses, education, and independent study will provide a variety of benefits, some of which may be the key to earning a parole date someday.

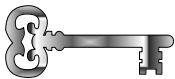


Key Point to Consider: Ten (10) years ago, 2003, the grant rate for life prisoners was 3.7%. Five (5) years ago, in 2008, the year of Marsy's Law enactment, the grant rate for life prisoners was 4.3%. It wasn't until 2012 that the number of lifers granted parole topped 500, when 670 paroled. This trend is continuing to improve particularly in light of the present CDCR population cap benchmarks.

The initial hearing is the parole candidate's first formal contact with the Board and is an important learning experience. Additionally, the initial hearing builds the foundation for future hearings. At the second suitability hearing (subsequent hearing), the panel is likely to refer to the transcripts of the initial hearing for facts and information. If the parole candidate was unprepared, made false and inconsistent statements, or the initial panel allowed incorrect information during the presentation, that information may be repeated in the second hearing if unchecked. If this incorrect information is not corrected at the subsequent hearing, subsequent hearing records will continue to reflect the erroneous data. Therefore, it is very important to make sure all facts are documented properly at the initial hearing and that no improper

information is put on the record, at least not without objection by the parole candidate's attorney. If the panel allows improper information, it is important to attempt to clarify that information or place an objection on the record. If not, the oversight gives the impression the improper information is true, or not important, if it is not clarified promptly.

To sum up, it is important to make a good impression at the initial hearing (and all subsequent hearings), as the parole candidate may see the same Commissioner(s) again in the future. The last thing you want to do is be unprepared and run into a Commissioner from a previous panel, and be denied suitability for parole because you failed to be prepared and/or failed to cure a deficit from the recommendations of a prior panel member. Being prepared to participate in the hearing and providing more than just the expected information will help avoid conflicts with Commissioner(s) and lessen misconceptions and bias with the panel.



Key Thought to Consider: When preparing for the suitability hearing, there are some things you can do that will make your presentation more believable and genuine: make sure you don't make excuses as you explain briefly what you did and why. Be courteous and patient. Always maintain eye contact by looking the Commissioners in the eye when speaking. Stay alert and let your interest show. Watch your posture by not slouching or leaning to the side – unless adjusting in your chair. The big thing is to RELAX and sit back in your chair, keep your feet on the floor and never tilt your chair backward. Present yourself as though you are applying for a job. Be mindful of your fidgeting or talking too much. Avoid nervous laughter and "ticks" like cracking your knuckles and playing with your hair or hands. Finally, BREATHE. It is normal to feel nervous – and your hands may sweat. If you feel like you need water, don't be afraid to ask. It simply shows you are human.

In the end, it becomes prudent to remember that our minds are our most powerful tool in the quest to reach our true freedom; a rich, full purposeful life. As long as we live, we can continue to develop our understanding and improve the way we think and react to ourselves, to others, and to life itself. By making steady, yet measurable progress, in these areas a person can achieve a sense of deep wisdom and peace - inside prison and in the free world. It is all up to you. Let the mirror of your life be your guide.

PORTRAIT Analysis

The PORTRAIT Analysis (Personal Observations Recognizing Traits Associated with Insight), examines the parole candidate's degree of personality trait insight associated with his/her understanding past and present mental attitudes toward the life crime. The PORTRAIT Analysis also demonstrates the parole candidate's depth in his/her being able to understand themselves as a person and how he/she understands the motivations that shapes his/her life and understands the decisions that led to his/her involvement in a life of crime. The following chart is an example of how the parole candidate can recognize/list their childhood and adult personality trait characteristics before and after the life crime.

PORTRAIT Analysis
[Personal Observations Recognizing Traits Associated with Insight]

Personality Trait Characteristics (Childhood/Adult)

Name: _____ CDCR # _____

Write in the below sections how you experienced the specific characteristics

Personality Trait Characteristics Pre – [Date] Life Crime

Characteristic(s):

Displaced Anger

Hostility

Negative Outlook

Recognizable Negative Behavior Trait(s):

I recognized that I was a thief, liar, manipulator, hustler, etc. I was deceitful; thoughtless ... I subjected myself to self-imposed stress...

I was consumed with anger causing irritation/rage. I acted with actions intent on causing harm to others and their property... I often felt worthless and isolated from the world. I did not like myself...

I suffered from a feeling I did not belong ... I lacked coping strategies to positively embrace the challenges of life. I developed a negative addictive personality (self-image addiction) with the aid of abusing steroids ...

Characteristic(s):

Motivated

Survivor

Confident

Recognizable Positive Behavior Trait(s)

Describe your positive trait(s) pre-date life crime

Describe how you survived the hardships of your life pre-date life crime

Describe the times you felt good about yourself etc...

Personality Trait Characteristics Post – [Behavior Change Date] – to Present

Characteristic(s)

Emotionally Healthy

Psychologically (mentally) Healthy

Spiritually Healthy

Recognizable Positive Behavior Trait(s)

Describe how your attitude towards life has changed...

Describe how you recognized the value of thinking right...

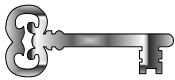
Describe how putting your faith in a Higher power

has changed your life...

SAMPLE

Gaining and exhibiting insights is your primary objective in pre-parole life skills building, however, recognizing associated personality traits in yourself adds to your arsenal of self-knowledge. When you committed your life crime (in most cases, many, many, years ago) you were probably a much different person than you are now. At your suitability hearing, the hearing panel may automatically perceive you as being the same character of person who committed the life crime. When you were younger your immaturity traits probably ruled your life more than realized back then. As you aged into what you are today, many of these appalling traits have disappeared. How many times have you sat in your cell or on the yard on a clear, sunny day, and reflected on your past? How many times have you said to yourself, “*Man I was an idiot back then; why did I do that crap?*” These characteristics may have been the result of a lack of patience, testosterone enhanced bravado, ignoring the feelings of others, etc.

When you present yourself to the psychologist and the hearing panel, speak up on this recognition of your past negative traits and enlighten your audience with how you overcame these bad behaviors. For example: You lost your temper twenty (22) years ago just before your life crime occurred; now you might say, “*I have taken two anger management classes, attend NA/AA, am now an active member in church ministry and a mentor in the Inmate Volunteer Mentor Service (IV-MS)...*” At some point, since incarceration you recognized your character flaws and defects of character and took important steps to correct the recognized negative personality traits. Along these same lines you might also add that you had positive traits back then, too, like helping out your elderly neighbor or grandmother when she was too ill to keep her yard cared for – you mowed her lawn twice a month. Tell the panel that you still have compassion and try to now help the younger prisoners by talking to them about changing their behaviors and finding a purpose in life. Exhibit your recognition of the past, both bad and good examples, but counter the bad with positive examples of how you have matured into the trustworthy person you are now – and how you are suitable for parole.



Key Thought to Consider: *If the parole candidate is denied parole suitability by the hearing panel, and the panel in it's decision has recommended continued self-help, the parole candidate can submit a request to see his/her prison mental health professional and ask for a recommendation from the therapist to be transferred to an institution that offers a mental health program for the purpose of seeking non-medicated “talk-therapy.” The reviewing doctor will place a CDC-128B Informational Chrono into the parole candidate's C-File, noting that due to the Board of Parole Hearings recommending continued “self-help to meet requirements for parole, consideration of transfer to an alternate institution with a Mental Health program should be provided to give the inmate the opportunity to meet BPH requirements.” This is particularly favorable for the parole candidate who is not housed currently in a mental health program facility and/or institution.*

Chapter Six

Making Sense of the Risk Assessment

Challenging the Fear of Self-Inventory

For the life prisoner, there is nothing worse than putting your heart and soul into preparing for the initial and subsequent parole suitability hearing, being evaluated by the Forensic Assessment Division (FAD), and having the commissioners tell you, “*You are not being found suitable for parole because you still pose a risk to public safety.*” The doubts begin to enter the heart and the questions begin to turn over in our mind. Feeling defeated we become overwhelmed with mental and emotional exhaustion. What follows, is the parole candidate experiences a sense of helplessness, frustration and depression – the words of the commissioner slowly begins to sink in; we let out a sigh of sadness, realizing that with being denied parole we have let our loved ones and support system down.

It can be said that life is measured in the hue of color. This means that life can be seen through the vision of interpretation. This is how the psychological evaluation process works. For example, most life prisoners who were raised in the 70s-80’s, maybe even later, had the experience of looking through a “kaleidoscope.” For the life prisoner who is not familiar with a kaleidoscope, when you look through the tube, at the end of the tube is a prism of colors – as you turn the base of the tube the prism colors change into different shapes and designs. This is how the risk assessment process works. Similarly, doctors, psychologists, psychiatrists, therapists, analysts, etc. are all trying to read the colors of our life in a kaleidoscope that makes up who we are. Using this best-guess process, risk assessment begins to take its own shape and form. The truth is that when the life prisoner is denied parole questions of “*What more can I do?*” “*What am I doing wrong?*” and “*How can the Board find me unsuitable?*” flashes through our thoughts. What we sometimes overlook is that the answer to why we were denied, usually can be found by looking no further than ourselves. In other words, being found unsuitable might begin with you.

A parole candidate’s ignorance or lack of knowledge and/or lack of willingness to self-explore deeper into a fearless and searching moral inventory, will often keep the true self hidden from those that hold the keys to our regained freedom. This becomes the parole candidate’s downfall to achieving parole. The question then begs, what can the parole candidate do? The best answer is to pick ourselves up, continue to learn, educate ourselves and work each day harder than the day before – because as men/women who are trying to show we have changed all we can do is work to become better than we were. Even if it brings confusion in the moment, each of us needs to push on and better ourselves. Giving up is not an option. Making sense of the risk assessment process is not simple to understand, but it is important to become aware how the risk assessment is vital to a panel finding you suitable for parole.



Note: This chapter is devoted to the introduction of the FAD and types of risk assessments that are used to determine risk and recidivism for the ISL life prisoner eligible for parole. To avoid confusion references will be highlighted and limited. The purpose of this chapter is to reveal formally the FAD and the significance of risk assessment testing as it applies to parole suitability. Further, independent research, study, inquiries, etc. is encouraged by the author. The author is NOT a doctor and has NO mental health training. The author’s intention is to provide a summary of basic testing mechanics

associated with risk awareness. A reference to any specific data or results of tests is only advisory and instructional. This chapter should not be viewed in a light that might suggest perceptions on risk assessment manipulation. This chapter is ONLY a layman's understanding of the psychological evaluation process in preparation for the suitability hearing.

Under California law, the provisions of the risk assessment is necessary to assist the Board in determining whether a life prisoner sentenced to life with the possibility of parole poses a current unreasonable risk of danger to society if released on parole. The penal code provides that all life inmates will receive a Comprehensive Risk Assessment (CRA) prior to their initial parole consideration hearing by the Forensic Assessment Division (FAD). The responsibility of the BPH-FAD is to conduct the CRA and Subsequent Risk Assessment (SRA) psychological evaluations for purposes of the parole suitability hearing. However, a psychological risk assessment is only one piece of information available to a hearing panel. The hearing panel will determine what weight to give various information in considering whether an inmate is suitable for parole.

Risk Assessment by the Numbers

In trying to understand what is relative to the BPH-FAD, the risk assessments commonly referred to as psychological evaluations, will be the most confusing to understand and comprehend in the overall preparation in learning how to build life skills for the suitability hearing. The risk assessment is nothing more than an evaluation of your risk. To break down the nature of the risk assessment process is to say that the doctor performing the test for risk is making a best guess based on statistics. It is an area of complex reasoning that is often overlooked by the parole candidate because of the challenges to understand and make sense of what is being evaluated in the risk assessment reports. Risk evaluations are used to calculate an opinion of the parole candidate's potential risk for committing violence and/or recidivism if released from prison.

In general, when a doctor (evaluator, analyst), assesses a parole candidate for risk, the doctor will use a series of mental status examinations and evaluations to score by number the parole candidate's level of remorse, emotional functioning, insight, self-understanding, psychiatric symptoms, and risk factors from the life prisoner's history – such as the role drugs or alcohol might have contributed to the commitment offense. The process also includes an explanation of the commitment offense and the parole candidate's attitude regarding the crime(s), as well as a history of his/her prison programming. In this chapter, the author elects not to introduce the entire battery of available psychological risk assessment tests; rather this chapter will discuss what the BPH-FAD terms to be effective risk assessment tests for the lifer population. Buzz words like “actuarial” simply means “to calculate risk.” When a parole candidate is assessed using a particular actuarial tool, his/her particular characteristics are inventoried (cataloged) and determined by the extent to which he/she possess various risk factors associated with violating parole and returning to prison.

The FAD relies on and/or has relied on in the past the following risk assessment tools in their overall determination of a parole candidate's risk:

1. HCR-20
2. PCL-R
3. Static 99
4. LS-CMI or LSI-R (Neither the LS/CMI or LSI-R will be covered in this chapter because they are no longer in use by the FAD).



Note: It is widely accepted that a person's psychological demeanor changes over time. It is not unusual for the FAD protocols to vary to some degree on individual parole candidates based on their last Board risk assessment date. Generally, a parole candidate should expect for the report protocols to contain same or similar criteria. As of this edition the FAD is now using a new version

of the HCR-20 (but does not mean better, or more reliable or relevant, has discontinued the use of the LS/CMI and now only uses three levels of risk rating (low, moderate and high) instead of 5, which included low/moderate and moderate/high. The format of the new assessments is also reportedly less duplicative and more relevant... (LSA, Vol. 5-4, April 2014). What is known is that BPH changed the test in the psychological evaluation mix at the beginning of 2014. The LS/CMI was dropped as being too similar to the HCR-20 V3, which is the same HCR-20 (20 questions), third version. Risk factors will be discussed below.

The importance of being able to identify “which” actuarial test is being used by the doctor becomes relevant to being able to understand the differences between dynamic factors and static factors. To best understand the difference, an inventory of static factors alone does not provide a clear picture of risk. This is because *dynamic factors are used to measure risk of violence*. Dynamic factors (variables) might include motivation, response to treatment, remorse, acceptance of responsibility, etc., whereas static factors (unchangeable) (variables) *are used as best indicators that might influence recidivism*. Therein, violent offense recidivism is best predicted by prior violent offenses, mental illness, and a history of substance abuse.

HCR-20:

The HCR-20 is known as the Historical Clinical Risk Management-20. The HCR-20 is an assessment tool that provides an estimate of overall risk of violence. The HCR-20 has 20 questions that the doctor asks the parole candidate. The questions are divided into three (3) basic categories: 10 factors are historical including previous violence, young age at first violent incident, etc., 5 factors are clinical; 5 factors are “risk management.” The HCR-20 categories are scored using a rating of 0 (available evidence contradicts the presence of the item/or not present); 1 (available information suggests the possible presence of the item/possible) and 3. (Available information indicates the presence of the item/definitely present). The domains (the sets on which a function is defined) for the HCR-20 are as follows:

Historical (Past)	Clinical (Present)	Risk Assessment (Future)
Previous violence	Lack of insight	Plans lack feasibility
Relationship instability	Negative attitude	Exposure to destabilizers
Employment problems	Active symptoms of a major illness	Lack of personal support
Major mental illness	Impulsivity	Noncompliance with redemption attempts
Psychopathy	Unresponsive to treatment	Stress
Early maladjustment		
Personality disorder		
Prior supervision failure		

PCL-R:

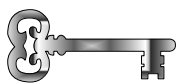
The PCL-R is known as the Psychopathy Checklist Revised. The PCL-R is required for the scoring of the HCR-20. It is an assessment tool designed to identify psychopathic tendencies. The PCL-R is generally accepted by most in the field as the “gold standard” for determining the presence and extent of psychopathy in a person. The PCL-R is not a risk assessment per se. The test is designed to identify the degree of a person’s psychopathic tendencies. The PCL-R is recognized for its utility in the area of predicting potential risk of violence. The PCL-R risk assessment tool includes twenty (20) items, weighted from 0 (absent) to 2 (severe). It measures psychopathy which is often synonymous with the “sociopath” and is used to describe certain heartless, callous, people. If a parole candidate is scored on the two (2) major components of the checklist – “*antisocial lifestyle and aggressive narcissism*,” and if his/her score is thirty (30) or higher, the parole candidate may be viewed as a psychopath. The PCL-R involves both a clinical interview by a doctor and a doctor’s review of the parole candidate’s C-File and historical records.

The items that are measured include the nature of the parole candidate’s interpersonal relationships; his/her affective or emotional involvement; responses to other people and to situations; evidence of social deviance and lifestyle. It is based on two (2) different constructs (elements brought together) that define psychopathy:

- Factor one – Characteristics consists of personality traits such as manipulative and deceitful, glib, superficial, lack of empathy, egocentric and grandiose; and
- Factor two – Characteristics are social deviant behaviors that consist of being impulsive, the need for excitement, having poor behavioral controls, a lack of responsibility, early behavior and adult antisocial behavior.

The twenty (20) traits assessed by the PCL-R score are as follows:

1. Glib and superficial charm	11. Sexual promiscuity
2. Grandiose (exaggerated high) estimation of self	12. Early behavior problems
3. Need for stimulation	13. Lack of realistic long term goals
4. pathological lying	14. Impulsivity
5. Cunning and manipulateness	15. Irresponsibility
6. Lack of remorse or guilt	16. Failure to accept responsibility for own actions
7. Shallow affect (superficial emotional responsiveness)	17. Many short-term marital relationships
8. Callousness and lack of empathy	18. Juvenile delinquency
9. Parasitic lifestyle	19. Revocation of conditional release
10. Poor behavioral controls	20. Criminal versatility



Key Point to Consider: *The ADA and hearing panel know there is some controversy in the field as to whether a parole candidate who scores 25-29 is moderately psychopathic. The ADA is taught that many inmates, even murderers, will prove not to be psychopaths on this test. The parole candidate needs to be careful. If the FAD doctor indicates the parole candidate is psychopathic the ADA knows this is significant and will likely argue it forcefully. Thus, while there is some correlation between inmates with an Antisocial Personality Disorder and those who are considered to be psychopathic, the terms are not identical. The PCL-R score is only one factor in determining risk assessment. (See Prosecutor’s Notebook – Lifer Hearings, Volume XXXVI (2007).*

Static 99:

The Static-99 (also known as the Static-99-R), is an assessment instrument that assesses a parole candidate’s risk for sexual and non-sexual recidivism. Generally, the Static-99 assessment tool is for male sex crime violators, or when there is reason to believe that a sex offense with an identifiable victim has occurred. This instrument is designed for parole candidates who are currently incarcerated for their sexual offense(s). However, doctors will often use the Static-99 questions that relate to an individual’s past sex life routinely with the lifer population. This testing instrument is used to predict sex offender recidivism and has ten (10) factors. A score of four (4) or higher is considered moderate. A score of five (5) or six (6) is high.



Note: *The Static-99 is a very controversial risk assessment instrument. If the parole candidate is required to register under the provisions of Penal Code section 290, the parole candidate should expect to be evaluated by the FAD doctor using the Static-99 instrument. This instrument can led to scoring contamination when the “index offense” (sex offense conviction) is not the crime of incarceration. More importantly, the Static-99 adds points for not*



living with a romantic partner for two (2) years and adds points for four (four) sentencing dates prior to the index crime. If the Static-99 or Static-99-R applies to you be sure to have a sex-offender relapse prevention/trigger plan in place BEFORE the CRA or SRA takes place.

Risk Assessment Conclusion

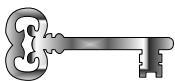
The evaluation process is pieced together with the doctor's opinion, after reviewing all assessments of the parole candidate's potential for future violence and recidivism. In past, the opinion was expressed in terms low, low to moderate, moderate, moderate to high, or high risk of future violence. As stated above, the new risk assessment conclusions will result in the new scoring of *low*, *moderate*, and *high*. Now that you have been given a highlighted summary of what types of risk assessment tests are in use by the FAD, we can now turn to identifying the mechanics of preparing for the Comprehensive Risk Assessment and Subsequent Risk Assessment.

The Comprehensive Risk Assessment (CRA)

In preparing for the CRA the parole candidate should pay particular attention to his/her C-File and Unit Health Record (UHR). The C-File and UHR are the primary sources of information specific to the scope of the overall risk assessment. The FAD doctor (or your independent doctor) will use key records from the C-File including the POR, which provides details of the commitment offense (life crime), social factors, criminal history, and the POR'S recommendations to the court. Additional documents relied on in the evaluation are I15 history, counseling chronos, notes prepared for the previous hearing, the last Board panel report, Life Prisoner Evaluation Report (LPER), and the Legal Status Summary (LSS) (information about the offense and length of prison term.)



Note: The above mentioned documents reviewed by the BPH-FAD doctors are not exclusive (narrowed); a history of CDCR mental health/therapy treatment (Example: Correctional Clinical Case Management System (CCCMS), Mental Health Services Delivery System (MHSDS) and Enhanced Outpatient Program EOP), etc. may further trigger a deeper review by the FAD doctor. And, for the parole candidate who is/or has sought therapy via CCCMS, the BPH is accepting that CCCMS carries a stigma that projects an assumption the parole candidate will not be found suitable for parole because of the CCCMS designation – even if the only therapy available is through a CCCMS placement. As a result of this, the BPH has made clear that they are NOT treating participation in a CCCMS program as a danger signal for risk of violence and/or recidivism.



Key Thought to Consider: When preparing your parole plans it is important to have both the parole plans and support system placed into the C-File before the risk assessment evaluation takes place with the FAD doctor. This will give the doctor an opportunity to appropriately consider the parole candidate's relapse prevention plans, and letters of support, especially where final letters of support or letters of acceptance in sober living/transitional housing have yet to be received.

The CRA Universal Outline

So, how does the FAD doctor arrive at his/her conclusions? Factors relied on to assess your risk is used in combination with a personal interview by the doctor. In most cases, a general discussion will begin by answering a series of psychological questions in the CRA and SRA evaluation. Examples of the questions that may or may not be asked are as follows:

1. What are your greatest personal strengths?
2. Why are you not a criminal?
3. How would you describe yourself as a person?
4. How have you changed over your incarceration?
5. What are you most proud of?
6. What has been your biggest failure in life?
7. What is the one thing you would change that would have made a significant difference in your life?
8. How would someone describe you?
9. How would someone who doesn't like you describe you?
10. What type of assistance will you need to be successful upon release?
11. What do you do that makes you happy?
12. What is your philosophy for life?
13. How has prison helped you?
14. What do you want to accomplish while still incarcerated?
15. What irritates you?
16. How do you typically respond when other inmates upset you?
17. What motivated you to commit this crime?
18. Was the crime serious?
19. Did your attorney do a good job?
20. Would the results have been the same if you had a different attorney?
21. How do you view the judicial system?
22. Was your sentence fair?
23. Who was responsible for the crime?
24. Who was the victim?
25. What does it mean to have remorse?
26. Have you felt remorse for your crime?
27. How would someone detect your remorse?
28. How often do you think of your victims?
29. How do you feel about your victims?
30. How do you feel about what happened to you?
31. Who was affected by your crime?
32. What have you done to make amends?
33. If given the opportunity, what would you say to your victims?
34. What does it mean to have insight?
35. What contributed to your behavior?
36. What have you discovered about your personality style?
37. What have you done to correct the causative factors of your crime?
38. Which self-help groups are you currently involved in?



Note: *The above questions are not exclusive to the evaluation process. Risk assessment questions may vary with the individual parole candidate. The evaluating doctor may not ask the same questions as the author has shown in this chapter. The above questions are merely for instructional purposes only.*

An example of the sections that might be found in the CRA may be formatted in the following universal outline:

BACKGROUND INFORMATION

- Childhood/Adolescence and Family History
- Education
- Psychosexual Development/Sexual Orientation
- Marital/Relationship History

- Adult Peer Relationships/Gang Affiliations
- Military History
- Employment/Income History (This includes prison jobs/assignments)

PAROLE PLANS IF RELEASED



Note: Be prepared to discuss a Substance Abuse/Relapse Prevention strategy. If your criminal history includes subjective, yet “high risk” behaviors, you also should prepare, and be prepared to discuss a “high risk” offender plan with exit strategies. A Relapse Prevention & Recovery Plan; short term plan and long term plan that shows a 24 hour, 7 days, 30 days, 6 months-1year, and 5 year parole rehabilitation plan.

CLINICAL ASSESSMENT

- Mental Health History
- Insight/Self-Assessment
- Medical History
- Substance Abuse History
- Role that Alcohol Played in the Commitment Offense and Inmate’s Ability to Refrain from Future Use in the Free Community
- Current Mental Status/Treatments
- Impulsivity/Behavioral Control



Note: Be prepared to discuss and present an Anger Management Plan/Stress Management Plan. Plans should include the names of your contacts and phone numbers of your support system in the County you are paroling to and the resources that are available to assist you in anger/stress management, etc.

- Diagnostic Impression (Axis I, II, II, etc.) Note: “Axis” is a clinical term that simply defines the category of diagnostic impression. (A diagnostic impression is a statement or conclusion from such examination)

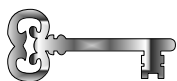
CRIMINAL HISTORY.REVIEW OF LIFE CRIME

- Juvenile and Adult Record/Prior Prison Commitments
- Prior Performance on Supervised Release
- Life Crime
- Remorse and Insight into Life Crime

INSTITUTIONAL PROGRAMMING/HISTORY

- C-File Review

ASSESSMENT FOR RISK OF VIOLENCE

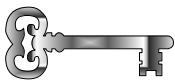


***Key Thought to Consider:** At this stage of the evaluation, the doctor will utilize a combination of actuarially derived and structured professional judgment approaches (basically guess work) to assessing violence risk potential. In estimating a parole candidate’s risk for future violence in the community, the PCL-R and HCR-20 (HCR-20 V3) are combined together to compute a projected overall score. In past, the LS/CMI (LSI-R) was utilized to assess general risk for recidivism, and not violence per se. **A CAUTIONARY NOTE:** The doctor will use the information taken from both the life prisoner*

interview and the files reviewed to score the instruments. When being interviewed be aware of the fact that the doctor is relying on the function of a variety of factors (earlier discussed) that includes your history, personal views, and situational circumstances to ultimately determine whether the parole candidate will engage in future violence.

Finally, the doctor will provide his/her overall risk assessment. Here, the doctor presents a degree of risk of violence in the free community and if applicable, a degree of risk for sexual recidivism. The doctor bases his/her estimates of risk by taking into account the parole candidate's cultural background, personal, social, criminal history, institutional programming, community/social support, release plans and current clinical presentation. In other words, the way you project yourself during the interview. When you receive the results of your risk assessment, don't be discouraged if you receive a score or evaluation beyond that of a "low risk." Many times the FAD doctor will indicate that a person exhibited *glib, grandiose* traits during the interview. It is also not uncommon for doctors to conclude a person presents him/herself in a *good light, is self-assured, quick and clever*, and exhibits *little sense of deep personal failure*. Unfortunately, these factors will elevate the risk assessment score. Typically, the FAD doctor will use boilerplate (parroted and standard) language in their conclusion. Meaning, it is common practice for the FAD doctor to rely on the same specific factors in multiple parole candidate's CRA evaluations – even if they truly don't apply in the CRA and SRA. (See samples below)

- *“...It was not possible to know if Mr. Black’s new revelations and expressions of remorse were genuine, or if they are attempts to present what he believes is a more acceptable account of his insight into his crime. Mr. Black’s level of insight and acceptance of responsibility remains incomplete. Mr. Black is encouraged to continue to engage in the positive behaviors he has demonstrated over the past five years. He is encouraged to continue participating in groups or individual therapy where he can be exposed to feedback from others.”*
- *“...Mr. Black has changed his account of the crime and his motivations over time. This pattern continues. His credibility is highly suspect. Aspects of Mr. Black’s self-reported history seem questionable and Mr. Black’s statements appeared to be highly intellectualized; describing the crime and his motivations at times appeared to reflect rationalization. There does not appear to be any objective support for his claims of abuse as a child and he presented confusing and conflicting motives for the crime.”*
- *“...Mr. Black has been involved in a number of criminal acts, prior to and while in prison. He murdered his victim, and seriously injured an inmate in 2003. Description of these acts suggested they were committed during violent rages. The inmate has a well-established pattern of using and manipulating others for gain; often by presenting as sincere. These reflect long-standing personality traits.”*
- *“...His level of insight and acceptance of responsibility remain incomplete. The inmate is encouraged to continue to engage in the positive behaviors he has demonstrated over the past five years. He is encouraged to continue participating in groups or individual therapy where he can be exposed to feedback from others.”*



Key Point to Consider: An evaluation completed after January 1, 2009, is valid for five (5) years; others for three (3) years. When a petition to advance is granted the parole candidate will receive a new subsequent risk assessment (SRA) before being scheduled for his next hearing. While the risk assessment is only one piece of the overall evidence the hearing panel relies on, risk assessments will always be a primary consideration for the hearing commissioners and Governor’s review.

The Subsequent Risk Assessment (SRA)

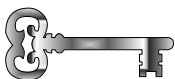
In the five (5) year period after a CRA has been completed, life prisoners who are due for a regularly scheduled parole consideration hearing (suitability hearing) will have a SRA completed by a licensed psychologist employed by the Board of Parole Hearings, for use at the suitability hearing. This will not apply to documentation hearings, consultation hearings, rescission hearings, postponed hearings (unless a new risk assessment needs to be completed before the new hearing and is recommended by the Board), cases coming before the Board en banc (full Board review), three (3) year and one (1) year review progress hearings, waived hearings, or hearings scheduled pursuant to court order, unless the Board's Chief Psychologist or designee, in his discretion, determines a new assessment is appropriate under the individual circumstances of the parole candidate's case.

The SRA will address changes in the circumstances of the parole candidate's case, such as new programming, new disciplinary issues, change in mental status, or changes in parole plans since the completion of the CRA. The SRA is not supposed to include an opinion regarding the parole candidate's potential for future violence because it supplements but does not replace the CRA. However, from experience, the author is well aware that a SRA may include an opinion from the FAD doctor that may be contrary to a favorable opinion, even when each of the recommendations have been met that were noted by the previous FAD doctor in the CRA. It is a tactic for the FAD doctor to "ascribe" to the findings of unsuitability noted in the CRA. If this happens to you, you should consider filing a rebuttal especially if your programming has improved and you have remained disciplinary free.

Currently, life prisoners who reside in a State other than California, including those under the Interstate Compact Agreement, may not receive a CRA, SRA, or other psychological evaluation for the purpose of evaluating parole suitability due to restraints imposed by other States' rules and regulations and confidentiality laws among the States. If a psychological report is available, it may be considered by the hearing panel for the purpose of evaluating parole suitability at the panel's discretion only if it may be provided to the life prisoner without violating the laws and regulations of the State in which the parole candidate is housed. (See 15 CCR tit. 15 § 2240(g))

Appealing a FAD Risk Assessment

Unfortunately, whether the parole candidate's evaluation is a CRA or SRA, there are no CDCR regulations providing for a parole candidate to challenge a bad or inaccurate BPH-FAD psychological evaluation. Subsection 2240(d) makes it clear that the CDCR inmate appeal process does not apply to the Board's psychological reports. Psychological reports are prepared solely to assist a hearing panel or the Board in determining whether a parole candidate is suitable for parole. When the parole candidate discovers inaccuracies in the risk assessment report, he/she or their attorney may challenge the report and its conclusions at the hearing. The hearing panel will then determine at its discretion, what evidentiary weight is to be given to the risk assessment reports. It is important to voice your objections in the hearing so that the objection can be recorded on transcript. If the parole candidate believes that his/her report is inaccurate, then the appropriate thing would be to ask his/her attorney to ask the hearing panel for clarifying information. Even if the commissioners do not refute the attorney's claims on the record, the effort will preserve the objection for possibly judicial review. Additionally, a parole candidate or his/her attorney has right to enter a written response to a psychological report pursuant to Penal Code section 3041.5(a)(1) and 15 CCR tit. 15 § 2247.



Key Thought to Consider: Subsection 2240(e) defines a substantial error in a risk assessment report and describes how such errors will be reviewed if they are identified by a hearing panel. The most obvious example is a factual error directly related to the life crime. This subsection guarantees the parole candidate due process by providing a remedy to challenge evaluations that contain factually inaccurate

Descriptions of the life crime or other substantial errors that is likely to have significant impact on the validity of the report.

In rebutting a FAD report, the focus of the rebuttal should be on inaccuracies and errors identified in the FAD evaluation. Example: A parole candidate can rebut a misdiagnosis of an Axis Diagnostic Impression; mischaracterization of a conviction; scoring errors on the clinical assessment for risk of violence; and lack of objective psychological testing. If this applies to you in your case, make sure you and/or your attorney is able to assert that the FAD report should be invalidated due to 1) scoring errors on the risk assessment instruments, 2) misdiagnosis, and 3) internal inconsistencies and biased rating. If you make a challenge on a misdiagnosis, it is advisable that you support all your rebuttal challenges with more than one source. Further, if you or your attorney makes such a challenge the Board will likely assert their own rebuttal by asking: “...is the challenge to a misdiagnosis a universally accepted proposition with respect to the misdiagnosis...?” If you or your attorney is not prepared to rebut the panel’s assertion you can expect the hearing panel to overrule the objection with “...it will be unfair to characterize the use of the specific instrument in the diagnoses as improper.” Remember, each hearing and circumstance is different. Any challenges or questions concerning the risk assessment report should be addressed with a qualified doctor and/or attorney before being rebutted in the hearing panel or with the BPH-FAD.

Remorse: Real or Fake

Commissioners always want prisoners to recount their remorse, insight, and amends in their own words, not parroted from script. What psychologists or risk assessment doctors’ term “affect,” is often an important part of the picture the hearing panel sees. Toward that end, the best advice remains that from several attorneys and prisoners who have successfully paroled; prepare in advance, be genuine, consider all questions before answering and be aware that it is more than words that leave an impression with the FAD doctor and hearing panel. Don’t express your insight and remorse from countless books you have read and/or study classes you have taken. Words without the emotional substance in your affect are meaningless to the panel and they will likely determine that although you are expressing remorse – the remorse you are expressing is not genuine.

The Risk Assessment and the ADA

The California District Attorneys Association provides instructional strategies to its members who attend parole suitability hearings, coaching the ADA representative how to interpret a favorable risk assessment evaluation and how to oppose your parole (See *Prosecutors Notebook –Lifer Hearings*, Vol. XXXVI (2007 Update). The primary issue for the ADA is whether the parole candidate is suitable for parole, thus, following the risk assessment phase, the ADA’s main aim is calling the Board panels’ attention to factors demonstrating that the parole candidate’s evaluation potentially demonstrates his/her risk to society. In rare circumstances, the ADA may perceive the burden to show suitability for parole is on the candidate, but no statute or regulation indicates this; as a rule, the ADA is *taught* that the hearing panel does not operate under such assumption. (Ibid.)

The parole candidate should always remember that the ADA’S focus is first public safety, second, then on your unsuitability. In most cases, risk assessment reports play a significant role in that decision. In most instances the ADA will be familiar with the basic protocols (set of rules/guidelines) for the Board reports. The parole candidate should expect that the ADA will look to the basic core identifying

information, i.e., *family history, education, psychosexual history, military, employment, substance abuse history, mental status, diagnoses, review of life crime, assessment of dangerousness and conclusions* in his/her determination to safeguard the public and assessing the parole candidate's parole suitability.

Reliance on State of Mind Reports

The ADA is trained to evaluate the parole candidate's mental state by reviewing everything in the parole candidate's files, referring to state-of-mind. This includes reports written by counselors, psychologists/psychiatrists, psych. technicians and medical personnel who write 7219 Medical Evaluation reports which are completed by the treating medical technician/nurse during an altercation or when suspected of drug use/abuse. The parole candidate's offhand statements in a 7219 report can be used to show the parole candidate's state of mind. The ADA is also taught to use the above reports to their advantage regardless of the report's conclusions. The reports may conclude that the parole candidate's state-of-mind indicates that he/she still presents a threat to society. The parole candidate should always expect the ADA to emphasize these conclusions to the hearing panel as evidence of his/her failure to rehabilitate. Further, the parole candidate should be aware and anticipate that the ADA will criticize any unreasonable opinions noted by the counselor on his/her progress.

When relying on state-of-mind reports, the review of the life crime, mental status and/or diagnosis and the assessment of dangerousness are the most important elements of the reports and they are usually reviewed closely. The Board's protocol for risk assessment reports mandate (command) certain risk assessment tools to be used in life prisoner evaluations. The ADA is also taught that doctors using these appraisal tools rely on a parole candidate's historical (unchanging) and dynamic (changing) factors to project a measure of future dangerousness based on an equation. The ADA knows the purpose of these tools is to provide objective guidelines for determining the future risk of a parole candidate. When used in combination with a clinical evaluation of the life prisoner, the assessment tools are designed to serve one component to a professionally structured judgment regarding the risk of future violence.



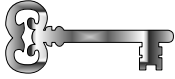
Note: If the parole candidate has a criminal appeal/post-conviction writ pending in the in the courts, it is advisable to consult with an attorney before requesting mental health services. Communication between the parole candidate and mental health evaluators is not privileged communication. Keep in mind the FAD doctor will review the CDCR Unit Health Record communications on file in forming an opinion as to scoring the level of risk.

Hiring an Independent Doctor to Assess Risk

Each parole candidate has the opportunity to present their independent risk assessment performed by a doctor of his/her choosing. While some legal experts may view presenting an independent evaluation as likely regarded with suspicion, the presentation is important to overcome barriers to "lack of insight" findings by a hearing panel. When hiring an outside doctor for a risk assessment, the report should focus on countering any lack of insight and/or credibility issues that may have been concluded by the FAD doctor in a CRA or SRA evaluation. The parole candidate is able to hire an outside doctor to prepare an independent risk assessment at his/her expense for the purpose of presenting the risk assessment as relevant document to the hearing panel. If you decide to present an independent evaluation and hire your own doctor you should ensure the doctor you hire is aware of the following:

1. The doctor/analyst must be respected by the Board and without a negative history in front of the commissioners;
2. The doctor/analyst must use the same diagnostic tools used by the Board;
3. The independent report must use the same format as those recognized and used by the Board;
4. The doctor/analyst should focus his/her findings in specific areas of past concern (lack of insight, substance abuse, lack of remorse, relationships, etc..)

This demonstrates your recognition of your past problem areas and your seriousness in following the Board's past recommendations – even if the hearing panel discounts your doctors'/analysts' opinion. The parole candidate should always be aware that the process of the psychological evaluation is the parole candidate's chance to display progress in recognizing and attempting correction of his/her flaws prior to being released back into society. If you hire an outside doctor to perform a risk assessment remember that you have no input in determining the result. You cannot attempt to compromise the process or you will face harsh criticism from the ADA and panel members who are trained to look for parole candidates trying to "manipulate the system." Bottom line here is this, let the cards fall where they may – being underhanded and trying to influence the results in any way will taint the entire proceeding and effect future suitability hearings as well.



Key Thought to Consider: Pending your appointment with the FAD doctor or outside doctor, a good strategy in preparation is to prepare a PARK file. The PARK (Psychological Assessment Readiness Kit) should contain letters that verify your transitional housing options, sober living home acceptance, and letters of family and community support, parole plans, and résumé, complete relapse and prevention plans, certificates, laudatory chronos, etc. Having copies of the above documents should be tabbed for quick reference and distribution early in the appointment. This readiness strategy is to your advantage. You are trying to show that you are ready to be found suitable for parole by making a good, honest, impression. Remember, you are being evaluated from the moment you first meet your doctor. Always be polite, courteous (but not overly friendly) and respectful. Above all else, do not assume you can convince the doctor/analyst you are NOT guilty of the crime. What will be written in your evaluation – might also greatly impact the outcome of your suitability hearing. Be prepared and know your PARK file well.

Chapter Seven

Being Mindful of Our Victims

“The Sense of Violation”

“What you and those who trivialize your experiences may fail to appreciate is that aside from any physical or financial losses, your inner self has been violated. You no longer feel safe in the world. Your sense of trust in others and in your community has diminished, if not evaporated entirely. Furthermore, the sense of autonomy and control over your life that is so essential to your functioning has been shattered. The disorientation, fear, self-doubt, and heightened sense of vulnerability that can follow this shattering of your trust and sense of autonomy can affect every area of your life. Even if you emerged from the crime without a single scratch and with all your belongings intact, you may have to deal with these psychological losses and other violations to your inner self...” Aphrodite Matsakis, I Can’t Get Over It, (1996).

Insight into Victim’s Rights

On November 4, 2008, the voters of California passed Proposition 9, the Victim’s Bill of Rights Act. In an effort to expand discretion in parole release decisions, California proposed Marsy’s Law enhancing the power of crime victims and their supporters to delay subsequent parole consideration for parole. The passage of Marsy’s Law seemingly sought to relieve the hardship victims and survivors experience while revisiting their crimes at parole hearings. The argument advanced was that, given California’s low rate of granting parole, it was an unnecessary hardship for crime victims to relive these crimes at hearings conducted every year or two when there was a likelihood the life prisoner appearing at a parole hearing would actually be granted parole.

With the passage of Marsy’s law, the new law amended the California Penal Code and gave victim’s next of kin (VNOK) the right to, “...express his/her or their views concerning the parole candidate and the case, including, but not limited to the commitment crimes, determinate-term-committing crimes for which the parole candidate has been paroled, any other felony crimes against the person for which the parole candidate has been convicted, the effect of the enumerated (itemized) crimes on the victim, the person responsible for these enumerated crimes and the suitability of the parole candidate...”



Note: This chapter will focus on the rights of victims and touch upon the sense of violation that results when we are responsible for the suffering all victims experience. While this chapter is central to understanding victim’s right in the parole suitability hearing, this chapter does not pursue a deeper understanding into the nature of being victimized. At all times, references to victims in general are stated respectfully. The author understands the impact of our choices to create our victims and how it becomes a lasting ripple effect long after our sentences have been served. While the information in this chapter is important for the parole candidate, it does not in any way diminish nature of victims, and the lasting effect a crime may have on a victim or a victim’s family - an effect that may well never diminish, let alone disappear.

Consequences of Marsy's law

With Marsy's Law, California voters eliminated presumptively *annual* (one year) parole hearings and replaced them with hearings held *once every 15 years* unless the Board finds clear and convincing evidence to justify a shorter interval. The prior law permitted the Board to defer (put off) hearings for only one, two, three, and four or five years; the law now authorizes deferral lengths of three, five, seven, ten, and fifteen years. Under the new law, a lifer can be considered for parole at his/her minimum term of, say seven years, only to be found unsuitable for parole and denied any further. The denial design requires that the panel consider the views and interests of the victims in setting the next hearing. For the panel to give less than fifteen (15) years, the panel must find by clear and convincing evidence that, considering the victim and public safety, the parole candidate does not require a lengthier period of incarceration than seven (7) years.

The victim(s) of your life crime, his/her family, their attorneys, and other designated parties, have significant rights in regards to the parole suitability hearing. Here we discuss these victim rights further and how they are applied in the preparation of and in the suitability hearing. Also discussed below is a summary of how we might express compassion for our victims. In this respect, it is important to be mindful of the advocates who represent the rights of victims, as shown in the case of *In re Barker*, 151 Cal.App.4th 375 (2007):

"...as advocates for victims, prosecutors recognize that the ability of victims to imagine their loved one's last moments and to relate their feelings regarding the pain and suffering their loved one's last moments and to relate their feelings regarding the pain and suffering their loved one experienced empowers those victims and allows them to feel as though they have a voice in the administration of justice. To the Court of Appeal, after a period of time, the commitment offense becomes irrelevant. To the victims of violent crime, the circumstances of the crime are indelibly stamped upon their memories and are never irrelevant."

Victim's Rights

The California Penal Code grants the right in general, upon request, to victims and victim's next-of-kin to be given notice of a parole candidate's parole suitability hearing. It also requires the requesting party to keep the Board apprised of his/her current mailing address. (See Penal Code section 3043) Furthermore, under Penal Code section 3042(a), the Board of Parole Hearings shall give 30-days notice of a prospective hearing to the Superior court judge; defense attorney, district attorney of the county where the offense was committed; law enforcement investigative agency; and agency that employed the victim if the victim was a peace officer. Consideration is given to the members of the victim's family as a right, to personally, or by counsel, appear at the parole candidate's suitability hearing and to adequately and reasonably express views concerning the crime and person responsible. Such a statement SHALL be considered by the Board hearing panel. In particular, murder cases present the opportunity for the victim(s) or victim representative, to provide testimony during the hearing that is extremely influential on the Board panel members to convince them to render a finding of unsuitability.

Upon proper notice to the Board, preparations can be made to have the requisite equipment available for the planning of a video tape, CD, DVD, etc. during the hearing (as discussed below). This sort of testimony is devastating to the chances of a parole candidate receiving a finding of suitability. Keep in mind that even a voice recording may be played for the hearing panel if notice is given of its availability. It is not ever case in which these sorts of procedures are employed. But, a parole candidate should be prepared to expect that in some cases, the ADA will find it proper, and at the appropriate time, use these procedures in efforts to convince the hearing panel that the parole candidate should be found unsuitable for parole.

The following is a brief listing of victim's rights:

- Notification of pending hearing – The victim of any crime committed by the parole candidate may request the Board of Parole Hearings to notify him/her of any parole suitability hearing. If the victim is deceased, the victim's next-of-kin may request notification of the hearing. The notice must be sent at least thirty (30) days before the hearing.
- Right to appear at the hearing – The victim, next-of-kin, members of the victim's family, and two designated representatives of the victim or victim's next-of-kin can appear personally or through an attorney. The victim, or representative(s), may rationally express their views about the crime(s), the defendant, and the parole candidate's suitability for parole.



Note: A representative must be designated, in writing, before the hearing, and may speak/comment in the same manner as the victim/family. The Board's hearing panel must consider all statements presented in deciding the parole candidate's suitability. Evidence/statements designated as confidential does not require presentation in the hearing.

- Right to submit a recorded statement in lieu of personal appearance – A written, audiotape, videotaped statement may be submitted and presented at a parole suitability hearing, in lieu of a personal appearance by any victim or designated representative of the family. The hearing panel must consider such "in-lieu" statements/presentations before making their final decision. All victim advocates have the right to speak last in the hearing; however, this right is subject to the presiding person ensuring appropriate steps are taken to maintain relevancy and accuracy of statements presented. This includes allowance of rebuttal of supposed inaccurate submissions by the parole candidate or his/her attorney.



Note: In light of the passage of Marsy's Law, it is important to understand that victim impact statements may pose due process concerns because these declarations can go far outside the record and introduce hearsay evidence asserting the parole candidate is guilty of other crimes/misconduct. For example, victim family members sometimes tell the hearing panel that the parole candidate committed other serious crimes for which no charges were ever brought (so-called "uncharged acts," not typically allowed in trial).

The relevance of the above is that such statements and allegations can taint or bias the proceedings and violate the parole candidate's due process and constitutional rights. These are issues for resolve in court, not in a parole suitability hearing. It is advisable to consult with your attorney concerning the implications of victim impact statements. If you are aware of such pending declarations concerning uncharged acts, advise your attorney as soon as you are aware of the possible attempts. The parole candidate may place an objection, on the record, at the start of the hearing, should he/she sense these references will be brought out.

Responding to Victims through Compassion

The greatest darkness for the human mind is to believe that you never do anything wrong, hurtful, or stupid. Responding to victim statements requires the parole candidate to have a measure of wakening on his/her part. Victim statements are reflections of a permanent absence of life. The victim/VNOK is filled with pain and suffering from the actions that caused them to suffer. It will not be easy to again relive the fact your actions contributed to or caused loss of life. When I first decided to turn the page in my life and put my remorse into action, I knew I had to do something to atone for my actions in my life crime. The question became, "What do I do?" After reading the Victims' impact statement from my trial and initial parole suitability hearing, I looked into remedies for the impact these declarations had, and what I could do to make amends. I knew I had to address my Victim's family and do so with a heartfelt understanding and empathy. After all, I was responsible for the absence in their lives.

I remember wanting to speak directly to my Victim's family at my first hearing – but was advised I could not; all communications must be directed to the hearing panel. To me, this was like accidentally running over my neighbor's dog, but only allowed an apology to the city worker who comes out to retrieve the remains – what the point? This left me perplexed and mystified. Not knowing what to expect beyond that rejection, I sat there going through the motions listening to my attorney speak for me, never fully understanding “what he was being paid by the State to do?” In the moment, I kept dwelling on my statement of remorse, nervously going over the content; trying to remain serious and not show my nervousness and fear. The silence of the hearing panel waiting patiently for me to speak was like a somber yet eerie calm. I experienced for the first time the fear of my expressing my guilt and regret for the cruelty and harm I caused. A deep sense of shame rose to the surface of my throat, as it should, and this accurate, involuntary response helped level me to the responsibility I knew was mine alone – to express genuine remorse and begin the steps to make amends. In this reflection, I had the epiphany that I was the one who brought us all here (the hearing panel and VNOK) by taking a life and I knew that I owed the truth to my victim's family, society, and my own family before I could begin to accept true responsibility for my actions in taking a life.

Like my experiences, many parole candidates want to respond to the victims or victim's family and express remorse, but are unsure of how to do this. As mentioned above, the hearing panel will not permit you to speak directly to the victim's next-of-kin at the hearing. The Board recommends that all contact, prior to the hearing, be made through the district attorney's office; therefore any letters or remorse or apology should be sent to the district attorney's office with a request to forward the letter(s) to the appropriate location(s). If you decide to write a letter of remorse or apology, make sure you keep a copy of your letter(s) and a copy of your communication with the district attorney's office. It may be helpful, in advance, to write the district attorney's office in your county of conviction to inquire whether the family is willing to receive the letter. But, be cautious about contacting victims or victim's families, even through the district attorney's office. In fact, there are some cases the Board will advise the parole candidate NOT to make such contact. Always consult with your attorney before attempting contact.

When responding to victim's statements or when you feel like you want to express your remorse by apologizing for your misdeeds to the victims in your crime, I recommend look to the sentencing court transcript and/or the subsequent parole hearing transcript(s). Another source may come from the impact statement from the victim's family in a petition to advance hearing date (See Chapter 9 for filing a BPH-1045(A) Petition to Advance Hearing Date). In reviewing the transcripts, a parole candidate might be able to discover whether the victim or victim's representative has made statements tending to express how the life crime impacted their lives. An important component in responding to victim statements may require a deeper reflection and admission on your part once you analyze these prior reflections by victims or families.

Whether you make an admission is one bridge you may or may not have to cross. When responding to victim's impact statements, either in writing or verbally, your responses should be expressed with sincerity and with heart felt compassion. Responding to victim statements should not be taken lightly and should not be made superficially. A parole candidate's attitude must be genuine and honest. The essential point is that you thoroughly reveal and disclose your harmful actions. In replying to victim statements, particular care and empathy should be exercised and must entail elements of regret and remorse. By “regret,” you should express how you made your poor choices and wish you had not committed the offense, and sincerely have applied yourself to changing your ways so you do not repeat the unspeakable behavior.

At the parole suitability hearing, it is also relevant to remember that your primary function at the hearing is to SHOW the panel and others that you are now worthy of consideration for release back into society. Whether you speak or write about your remorse and apology, to be accepted as showing genuine remorse the parole candidate must learn how to recognize and let go of the **VIPER** (*Vanity, Image, Pride, Ego, and Rationale*) within. If your own impact statement expresses a confession as an expression of your mind and compassion, being honest, pure and sincere in your efforts will be felt at the worst trivial for

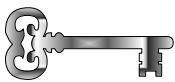
victims and victim's family – but accepting. On the other hand, you should not let this discourage you from trying to make amends. In the end, think of the impact it makes on your victims and the hearing panel when you offer a silent apology – if at all. To become free from the guilt that we all experience when we KNOW we do something wrong, the parole candidate must face up to her/his responsibility of showing insight. Remember REMORSE = REACT (Reconciliation, Empathy, Accountability, Compassion, and Transformation of character). Being able to express your remorse is the key to forgiveness. Even though we have no right to expect forgiveness, the best we can hope for would be to have our victims find it in their hearts to have compassion for us for the new man or woman we have become. But, we will never know how the victims will respond if don't first make the effort to reach out first and have compassion for those we have caused to suffer. (See sample Statement of Remorse below)

Marsy's Law – Family Presence at Hearing

Currently, under the provisions of Marsy's Law there is even an option to request approval by the Board of Parole Hearings to have the parole candidate's family members at the suitability hearing. While rare, this has been met with resistance by the Board, but the Office of Administrative law (OAL) has determined "that if the Board wants to exclude all family by practice, then they will need to have it written into law as a prohibition." Under the provisions of Marsy's Law, family members of a parole candidate have the opportunity to take advantage of the law's definition of "victim," to apply to attend and speak at the parole candidate's parole suitability hearing. The term "victim," is defined under Marsy's Law as *a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act.*

The term "victim" includes a lawful representative of crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term "victim" does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interest of a minor victim. (See Marsy's Law, Article 1, section 28(e).) Subsection 28(b) of Article 1, provides in pertinent part:

- b. In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:
 - 8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea sentencing, post conviction release decision, or any proceeding in which a right of the victim is at issue.
 - 8) To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority, to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
 - 17) To be informed of the rights enumerated in paragraphs (1) through (16).



Key Thought to Consider: *The key to being entitled to the benefits of Marsy's Law, lies in being able to articulate how the family member and/or writer suffered "direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of the parole candidate's offense." The writer or inquiring party, may appeal to be notified of a parole candidate's parole suitability hearing and request to be present and speak as a witness at the parole hearing as provided by law. The requesting party and/or writer should support with verification, the type of suffering he/she has experienced (physical, psychological, or financial harm) to qualify as a victim. The writer should keep copies of letters, documents, attachments, etc. and send them directly to:*

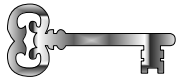
**California Department of Corrections and Rehabilitation (CDCR)
Office of Victim and Survivor Rights and Services (OVSRS)
P.O. Box 942883, Sacramento, CA 94283-0001**

To request a CDCR Form 1707, you can further call the toll free number: (877) 256-6877 or fax number: (916) 445-3737. The CDCR website at: <http://www.cdcr.ca.gov/victimservices/index.html> can also be accessed to obtain the CDCR form 1707. Send you completed forms to the address above. DO NOT send the completed forms to the prison.



Note: Submitting the CDCR form 1707 does not guarantee that a parole candidate's family will be approved to attend the parole suitability hearing. The reality is, this is rare, and you can expect to make number of applications before an authorized application is granted – if at all. The end result is you will never know until you try.

The parole candidate should always remember the grief and trauma felt by victims of crime. We are responsible for the suffering endured by those we have victimized. It is important to understand the emotional trauma that follows the hurt and violation of all physical traumas – big or small...



Key Thought to Consider: In past, a prisoner was able to send his/her letter of remorse/apology for the victims to the OVSRS. The OVSRS would read and lodge the letter and recognize the efforts of the person by sending back a return letter of acknowledgment that he/she understands the detrimental impact of his/her crime... While this service is no longer available to prisoners, and a letter of remorse/apology sent to the OVSRS will be returned if submitted, even with being rejected the returned letter provides an alternative but invaluable opportunity to show the hearing panel that efforts were undertaken to make amends. The returned letter with a notation to the above discontinued service will provide the hearing panel the confirmation of your efforts to express insight into your remorse.

Reverence for Life

Aware of the suffering caused by the destruction of life, I am committed to cultivating the insight of interbeing and compassion and learning ways to protect the lives of people, animals, plants, and minerals. I am determined not to kill, not to let others kill, and not to support any act of killing in the world, in my thinking, or in my way of life. Seeing that harmful actions arise from anger, fear, greed, and intolerance, which in turn come from dualistic and discriminative thinking, I will cultivate openness, nondiscrimination, and nonattachment to views in order to transform violence, fanaticism, and dogmatism in myself and in the world.

Thich Nhat Hanh, *Peace is every breath* (2011)

JAMES BLACK CDCR #K-00000
SUBSEQUENT PAROLE CONSIDERATION HEARING #2
JANUARY 16, 2014

STATEMENT OF REMORSE

Dan Smith was a human being. He was a likeable and loved man; a comfort to his family. He was a son, brother, and Uncle. On January 1, 1992, I came into his life and took his right to life away. I murdered Dan Smith and brought heartache and grief to his family and members of his community. I remember how Dan liked eating pizza and watching movies in his home. He had a love and gentle fondness for his cat "Mamma." He liked to laugh and spend quality time with his friends and family. I robbed Dan of his right to life and I robbed the right of Dan's family to have a meaningful relationship with him. I have often thought of the pain I caused for his family. The tears shed by his mother Greta; his father Robert having to hold and support his mother with his own strength with being told that James Black was responsible for the murder of their son. I think about Dan's niece, April and how she was impacted as a young teenage girl by the murder I committed against her Uncle. I think about Dan's nephew, John and how he was just a little toddler when I came into his life and robbed him of any opportunity to grow memories with his Uncle. To Dan's mother I am profoundly sorry for murdering your son. I am deeply ashamed for betraying your trust and open kindness and for destroying the normalcy that was in your family life. I caused many emotional and physical pains to Dan's sister, Sara Yellow. I am sorry that I murdered your brother and took Dan away from you. I had no right to abruptly end the special bond of a brother and sister relationship. To Joe Brown, I am sorry that you had to bear the strength for the family and take on the horrific task of cleaning up the physical destruction left by me in murdering Dan. To Suzy Red, I am sorry that I am responsible for causing you and your family emotional, physical, and financial trauma, having been the person to find Dan lying dead in his home. And to the community, I am sorry for the fear I caused with committing my crimes against society.

I accept that I alone am responsible for the absence of life and the pain and suffering that is felt by everyone who was touched by Dan's presence. With my life sentence, I have matured into a man who understands that even in lacking the necessary skills to cope with my own childhood fears; I did not have the right to murder Dan or take away the rights of Dan's family, his loved ones, and friends to enjoy their life experiences with him. If I had the opportunity to talk with Dan, I would ask him to accept my apology for not being a kind and compassionate human being to him. I would say to him, "Dan, I am sorry for not showing you the dignity, kindness, respect, and understanding you deserved in being a human being. I am profoundly sorry that I failed in being a good and decent person to you. I am sorry for the grief and financial distress I have caused to your family; and the ripples of pain that continue to shatter the lives of your loved ones. I am sorry for not acting and treating you with human understanding; I am sorry for murdering you and leaving you helpless and alone." Reading about Dan's mother, sister, niece, and nephew crying, has made me realize that could be my mother, sister, nieces, and nephews, crying over the loss of me; this makes me feel sad. No family should ever have to experience the pain and suffering of losing a loved one to a senseless act of murder. In these images, I feel my guilt to bear and I am left feeling remorseful and deeply ashamed of my actions.

In closing, I have learned to manage my life and not fall into old destructive behaviors with therapy and support group participation. I have learned life skills to manage my anger and resentment I previously held towards my biological mother and father for abandoning me. I have learned to let go of my anger from being physically and sexually abused as a boy. I have confidence to believe in myself and accept that I am a worthy person. I believe that I have redeeming qualities and can function lawfully in society if released on parole. I have worked hard to overcome being the irresponsible/reckless man I once was. I embrace that the significance and importance of making amends for my conduct, is not to gain forgiveness for myself; but to take responsibility for all my actions and to express my remorse to those I have harmed. Each day I work hard not to look to others for a sense of self-validation. I have learned to confront the pool of pain, grief, and guilt which I wrongfully expressed in anger, aggression, and manipulation. I have worked hard to find the goodness in me and understand my destructive behaviors. I recognize my poor character traits of past and humbly accept that I am not able to change the hurt that has resulted from my life crime. To this end, I accept that managing my poor behavior choices is the right thing to do and will be a life long journey of recovery regardless of this panel's decision. Again, I express my deepest shame and remorse and am profoundly sorry for the murder of Dan Smith. Thank you for your time.

JAMES VINNY BLACK

SAMPLE

Stay the Course – Believe in Yourself

When you believe in yourself, the universe opens up for you. When you do reach that level of self-growth that allows you to be at peace with yourself, your journey over the bridges the freedom will provide you with human understanding. Remember, you are not broken, vulnerable, or weak. You are the image in the mirror looking back at you. Discovering who you are will bring forth myriads of possibilities to who you can become in life. In pursuit of learning about yourself, it is important to also remember, “*Why you decided to make the positive changes in your life?*” We can never change the past or the actions that led to the harmful detriment of others and/or ourselves. To pursue the course of atonement, the parole candidate needs to readily acknowledge that the healing process is a continuing journey not only for the victims we create but also ourselves. This is important to recognize because to achieve a sense of personal growth, we further need to take the steps to make amends and demonstrate our sincere empathy (compassion) to develop and maintain the balance in our lives – a balance that can only exist by stripping away the layers that make up who we are. By peeling away the layers of our past, we become confronted with *denial vs. rationalization*. The essence of what we are trying to achieve in our personal growth, becomes noticeable to others when we take the steps to cultivate loving speech, develop true happiness, and experience true love and nourish our healing heart. Here are some simple actions to help you on your journey to putting your remorse into action:

- Be aware of the suffering caused by exploitation, social injustice, stealing and oppression. Commit to practicing generosity in your thinking, speaking, and actions. Be mindful in a determination not to steal, and/or possess anything that should or belongs to others. Find the time to share your energy, and material resources with those who are in need. Practice looking deeply to see that the happiness and suffering of others are not separate from your own happiness and suffering. Believe that true happiness is not possible without understanding and compassion. Learn to become aware that happiness depends on your mental attitude and not on external conditions. Commit to living life happily in the present moment by practicing right livelihood in an effort to reduce the suffering of others close to you.
- When feeling anger, listen to the inner voice that is telling you to “breathe.” Seek to understand that the roots of anger can be found in your wrong perceptions and lack of understanding of the suffering experienced within you and in other persons. Smile when you speak from the heart and listen in a way that can help yourself and the other person transform suffering to see the way out of difficult situations. Be aware that spreading news that is not known to be certain is harmful to the self; and that words uttered in lack of knowledge can cause division or discord. Allow yourself to feel the pleasure of forgiving yourself – don’t be so hard on yourself and nourish your capacity to understand love, joy, and gradually transform anger, violence and fear that lie deep in the subconscious mind.
- Practice coming back to the present moment when you find yourself feeling stressed, mentally beat down, and fatigued in heart. Be in touch with the refreshing, healing, and nourishing elements in you and around you, not letting regrets and sorrow drag you into the past. Recognize when you find yourself being pulled back into a state of anxiety, fear, or craving that leads to negative thoughts and/or actions. Be aware of the trappings of feeling lonely or suffering by losing yourself in consumption of toxicity. Contemplate interbeing (you in the moment) and swallow up all that preserves peace, tranquility, joy and personal well-being.

6) Is driving drunk, or being under the influence of alcohol/drugs, while driving an accident?

7) Do you think some crimes are worse than others?

8) How would you show remorse in your impact statement?

9) How would you demonstrate/describe empathy for crime victims in general?

10) How would you demonstrate/describe insight into your crime?

Chapter Eight

Another Bite of the Apple

The Subsequent Hearing

All parole candidates who were previously denied parole shall be reconsidered for a parole hearing in the same manner as at the initial parole hearing. The hearing panel shall consider the same information considered at the initial hearing. Like the initial parole hearing, the panel will generally be comprised of a commissioner, deputy commissioner and an ADA (prosecutor representative). At least one person on the new panel shall have been present at the past parole suitability hearing, unless it is not feasible to do. Scheduling of the subsequent parole suitability hearing shall be scheduled as provided in Penal Code section 3041.5. In cases in which the panel may deny a subsequent parole hearing for more than a statutory minimum the panel shall utilize the same criteria used in determining parole suitability in initial parole hearings as applicable. The panel shall make written findings stating the bases for the decision to defer the subsequent suitability hearing for 3, 5, 7, 10, or 15 years.

If the Board defers a hearing for five (5) years, the parole candidate's C-File shall be reviewed by a deputy commissioner that a hearing be held within one (1) year if the parole candidate has been disciplinary free and programming in accordance with Board direction since the last hearing. The Board shall notify the parole candidate in writing of the Deputy Commissioner's decision. The same rights provided to a parole candidate in the initial parole hearing, are applicable to the subsequent parole suitability hearing and post-hearing procedures.

Three Year Review - Automatic

Review of three (3) year denials are automatic under Marsy's law. From now on lifers who receive a 3 year denial of parole will get an automatic review of their hearing and possibly chance to advance the next hearing ahead of the 3 years under a new policy put into effect recently by the BPH. The Administrative Review process will be initiated by the BPH and will not prevent prisoners from filing a 1045(A) Petition to Advance (PTA) at any time during the 3 year period. The review process will operate much like the inmate-initiated PTA process, and will be done in a month-for-month time frame following the denial. Thus a 3 year denial given in August, 2013, will be reviewed in August 2014 to see if the prisoner is eligible for an advanced hearing. These reviews will be conducted at the BPH headquarters in Sacramento, by a group of Deputy Commissioners, whose primary job will be to review, consider and decide on these potential hearing advancements. If a "change in circumstances or new information" and after "considering views and interests of victims," there exists a "reasonable likelihood that consideration of public and victim's safety does not require the additional incarceration," a hearing date will be advanced. The decision on whether to advance a hearing or not could take anywhere from 2 weeks to more than 30 days, depending in part on whether or not there are registered victims who must be notified. The new hearing could then be held within 5 months. **Note:** Before granting a PTA, the Board must solicit the views of the victim or VNOK before it grants a request for an advance hearing. If the Board grants the request, it must provide 90 days' notice to the victim or VNOK before it holds the hearing.

Remember the feeling of being denied parole at my Initial (Sub. 1) hearing. I was simply emotionally torn to pieces. I had thought I presented a good case for being found suitable for parole – I couldn't have been more wrong. After my Subsequent #1 (Sub. 1) hearing, I went back to my cell and started going over the pieces of the puzzle I failed to put together correctly. I kept wondering “Where did I go wrong?” I momentarily remember being told by the panel the reasons “Why I was being found unsuitable for parole” – yet it hadn't quite registered with me. All I could think about was doing everything I can to get back early and hopefully get another bite at the apple to regain my freedom. Prior to receiving my transcripts from my hearing, I had already began to set things in motion to go back early under the petition to advance hearing process. While I did not have any knowledge of how to exercise the right to apply early, I felt that what I needed to do was to basically create a new PRO-Plan for the Subsequent 2 hearing using a format that would be similar to presenting an initial parole hearing résumé (See Chapter 2).

Having the above in mind, my next move was to make sense of the subsequent hearing process. I knew that there was something missing in my presentations from the previous hearing. I began to explore the mechanics of how Marsy's Law impacted the hearing panel into giving me a five (5) year denial of parole at my Sub. 1 hearing. What I discovered was a complex process of changes in the law that directly affected my being found suitable for parole at further subsequent hearings. This chapter, in retrospect to the passage of Marsy's Law, covers two main STRATEGIES for future suitability hearing preparation: 1) filing a petition to advance a hearing date (BPH-1045(A); and 2) preparing a PRO-Plan résumé for the subsequent hearing.



Note: This chapter does not cover hearings for parole candidates with new criminal or disciplinary charges; hearings for parole candidates with a change in legal status (i.e., final court decisions altering a commitment status, modification of the judgment, and new commitments); or a parole candidate with a previously established date who then received a new commitment to State prison. This chapter only provides informational strategies to filing a petition to advance hearing date and information that might help in preparing for a subsequent parole suitability hearing.

Stripping Down “Marsy’s Law”

Before Proposition 9 was enacted, the length of the deferral (time between parole suitability hearings) was determined by California Penal Code section 3041.(5)(b)(2). That section provided:

The board shall hear each case annually..., except the board may schedule the next hearing no later than the following:

- A. Two years after any hearing at which parole is denied if the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following year and states the bases for the finding.*
- B. Up to five (5) years after any hearing at which parole is denied if the prisoner has been convicted of murder and the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following years and states the bases for the finding in writing.*

Proposition 9 significantly changed the law governing deferral periods. The relevant changes were codified in California Penal Code section 3041.5(b)(3) and provide:

The board shall schedule the next hearing, and after considering the views and interests of the victim, as follows:

- A. Fifteen years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole*

release dates enumerated in subdivision (a) of Section 3041 are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than 10 additional years.

B. Ten years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole release dates enumerated in subdivision (a) of Section 3041 are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than 7 additional years.

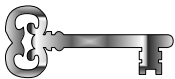
C. Three years, five years, or seven years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole release dates enumerated in subdivision (a) of Section 3041 are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than 7 additional years.

Cal. Penal Code section 3041.5(b)(3) (2010) (emphasis added).

Stripping Marsy's Law down further, the most significant changes are as follows: the minimum deferral (delay) period is increased from one year to three years, the maximum deferral period is increased from five years to fifteen years, and the default deferral period is changed from one year to fifteen years. (*Ibid.*) Further, the burden to impose a deferral period other than the default period increased. Before Proposition 9 was enacted, the deferral period was one year unless the Board found it was *unreasonable* to expect the prisoner would become suitable for parole within one year. (*Id.*) After Proposition 9, the deferral period is fifteen years unless the Board finds by *clear and convincing* evidence that the prisoner will be suitable for parole in ten years, in which case the deferral period is 10 years. (*Id.*) If the Board finds by *clear and convincing* evidence that the prisoner will be suitable for parole in seven years, the Board has discretion to set three-, five-, or seven-year deferral period.

Advancing a Hearing Date: BPH Form 1045(A)

Proposition 9 also amended the law governing parole deferral periods by authorizing the Board to advance a hearing date. The Board may exercise its discretion to hold an advance hearing sua sponte (on its own review) or at the request of the prisoner. "The Board may in its discretion ... advance a hearing ... to an earlier date, when a change in circumstances or new information establishes a reasonable likelihood to that consideration of the public and victim's safety does not require the additional period of incarceration of the prisoner... (*Id.*) Also, a prisoner may request an advance hearing by submitting a written request that "set[s] forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public does not require the additional period of incarceration." *A prisoner is limited to one such request every three years.* Although the minimum deferral period is three years, there is no minimum period the Board must waive before it holds an advance hearing. (*Id.*)



Key Thought to Consider: *The application for requesting advancement of a new parole hearing does not guarantee the parole candidate will be granted an earlier parole hearing. Do not be naive and believe that if you simply program (i.e., only stay disciplinary free, attend religious services, and/or meet the recommendations outlined by the hearing panel) you will be granted an early hearing. A parole candidate must be able to document a change in circumstances. This means you must be able to show exceptional performance or extraordinary achievement or be able to prove inadequate performance by your assigned Board attorney, factually inaccurate psychological reports or other documents on which the prior decision was based, dismissal of disciplinary charges that were considered*

in denying parole, bias on the part of a panelist, and issues of that nature. The Board will take a serious look at such applications, provided you provide the documentation to support the change in circumstances.

In general, once you have appeared at an initial hearing, if you have not been found suitable for parole by the hearing panel, the Board, and/or the Governor, then the process begins to repeat itself for the next hearing. In this process, the parole candidate cannot simply rely on his/her initial parole board résumé plans or his/her initial hearing PRO-Plan (or equivalent) – additional information and planning becomes necessary. To advance a hearing date, it now becomes a greater importance to *identify how the specific circumstances have changed, and/or what new information would be acceptable to advance the hearing?* As stated above, if you received a new risk assessment report, this would qualify to submit the petition to advance your hearing date. Further, while a new risk assessment report would be considered new evidence (example: maybe the BPH-FAD changed risk assessment tests during the intervening period of your deferral period and the hearing panel relied on the outdated risk instrument the FAD eliminated prior to your hearing?), the parole candidate can also attach a supplemental petition to advance a hearing date in the form of an **Addendum to the Petition to Advance Hearing Date [BPH-Form 1045(A)]**.

The nature of the petition to advance a hearing date (BPH-1045(A), provides the parole candidate with an opportunity to address previous hearing panel recommendations and new information that directly answers the question, *“is the parole candidate currently dangerous and thus, unsuitable for parole?”* The BPH-1045 (A) form provides for the parole candidate or his/her attorney to attach a copy of any supporting document(s) (i.e., support letters, job offers, and/or vocational or education certificates). But, *what if the change in circumstances is new insights into the causative factors of the life crime, and/or new insights into historical elements of your past prior to the life crime?* The majority of parole candidates may not have the financial resources to hire an attorney or mental health professional to document new insights. After all, developing new insights **IS** new information. For example: the passage of time is a change in circumstances that may affect a parole candidate’s suitability for parole (i.e., the prisoner’s dangerousness) even though his/her prior criminal history has not changed. A parole candidate can, in a request for an advance hearing, explain that he/she has accepted full responsibility for his/her crime and convey his or her remorse (*See In re Lawrence* 44 Cal.Rptr.3d 169 (2008)). But do not despair; there is a way to **SHOW** how your new insights or change of circumstances should warrant the relief in granting a petition to advance hearing date.

Cultivating our Garden

In adopting the Old French saying: *“il faut cultiver no-tre jar-din”*, “We must cultivate our garden: we must tend to our own affairs” (*Webster’s Collegiate Dictionary*, Tenth Ed. (2007)), preparing to write the addendum to your BPH-1045(A) is going to take some hard work on the parole candidate’s part. The idea of writing an addendum is to supplement the petition to advance hearing date with a complete *picture of who you are*. Writing out the pros and cons of your life story is going to be like writing a legal brief for the court. The subtle differences are visible, but no less important in the approach the parole candidate is not required to follow the specific rules of the court. Here, the intended goal is to “cultivate the history of your life” with a descriptive written picture that more than shows the earliest of your memories as a child and the new discovered insights into the causative factors of your life crime. Cultivating your psychological, emotional and spiritual garden, will at times, be challenging, fearful, brutal and rewarding. The bottom line is this, your life from the moment of birth did not start out with you being a criminal – so how did the influences you learned, the behaviors you adapted too, and the people in your life, impact you into making poor decisions as an adult and following the path that led to the crime that ultimately occurred? Below is a SAMPLE format from the author’s own works that resulted in having a BPH-1045(A) granted.



Note: The addendum to the BPH-1045(A) included in this chapter is taken from the author’s own works and knowledge. The author’s formula is not a Board of Parole Hearings approved strategy or method to advancing a hearing date. The below sample is for instructional purposes only. Before writing an addendum or following the samples in this chapter to advance a hearing date, a parole candidate should consult with his/her attorney if necessary. The following formula is merely suggestive and does not guarantee the petition to advance a hearing date will be granted.

The Petition to Advance Hearing Date – Addendum

When requesting a BPH-1045(A) form the parole candidate can either request a form from their Housing Unit Counselor, or he/she can send a request to the Board of Parole Hearings:

**Board of Parole Hearings
Decision Processing and Scheduling Unit
Attn: Petition Review
P.O. Box 4039
Sacramento, California 95812-4036**

Organizing the addendum should begin by having the following:

- **Cover page** (this should be the first page)
- **Table of Contents** (Second, third, page, etc.)

Because the addendum is being written informally to enhance the BPH-1045(A), writing to the Board of Parole Hearings in a business letter format is preferable. Next, when drafting the addendum, it is advisable to format the addendum similar to the way a petition with the court is filed. You would begin by identifying the nature of the petition:

- **RE: PETITION TO ADVANCE HEARING DATE**
- **Petitioner/Applicant: [Insert Name, CDCR NO]**

The base/foundation to the petition starts with an introductory paragraph to inform the Board the nature and purpose of what you are petitioning, why you are submitting the petition, and what reason you believe entitles you to relief (having the petition granted).

EXAMPLE

- Dear Review Panel:
 - *Petitioner JAMES J. BLACK #A-00000, hereby petitions the Board of Parole Hearings ('Board') to grant the request to move his hearing date forward following a five-year denial on August 8, 2013. Petitioner respectfully requests the Board to grant the petition, based on new evidence of new information and/or change in circumstances supporting a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration.*

The next two sections will also be similar to the legal brief. You want to provide facts of the crime as it is written in the Court of Appeal Opinion. You don't need to try and add facts or minimize facts. You simply need to describe the legal facts as recorded by the court. Note: If your life term sentence was the result of a plea agreement, than include the summary of the facts accepted and approved in your 859(a) Plea agreement transcript. Your facts may be short or long, depending on the circumstances of your conviction.

Don't try to manipulate the facts to your benefit. You should merely state the facts identified in the court record. After you have written out the facts of the crime, the tone shifts to the parole candidate's last parole suitability hearing. All parole candidate's who have been denied parole, were denied because of the ultimate conclusion that he/she continues to pose unreasonable risk to public safety.

EXAMPLE

➤ Facts of the Crime

- *On July 1, 1993, I beat and stomped Daniel Brown to death. (1997 Court of Appeal Opinion, pp. 2-3)...*

After you have written out the facts of the crime, the tone shifts to the parole candidate's last parole hearing. All parole candidate's who have been denied parole, are denied because the ultimate conclusion is that he/she continues to pose unreasonable risk to public safety. In this section, what you are trying to convey (make known) to the hearing panel, are the reasons why you were found unsuitable for parole at your last hearing. This will require the parole candidate to review his/her last parole hearing transcripts and take from the transcripts the hearing panel's expressed concerns for denying you parole.

EXAMPLE

➤ The Parole Suitability Hearing – August 8, 2013

- *On August 8, 2013, the Board conducted my parole suitability hearing at Calipatria State Prison. After consideration of the appropriate parole suitability factors, the hearing panel ultimately concluded that I was not yet suitable for parole in that I continue to pose an unreasonable danger to society if released from prison. The hearing panel denied me for five years. The hearing panel articulated to me that the greatest concern with me was my attitude towards the crime ... The hearing panel found that until I fully understand why I committed this crime, I am destined to reoffend and thus remain a current danger to society. The hearing panel found that my expressions of reform were not credible (2013 Board Hearing Transcript, p. 198) ... The hearing panel further concluded that I had taken positive steps toward reformation which may justify another hearing in five years rather than a lengthier period of time of up to fifteen years as now authorized in Penal Code section 3041.5.*



Note: If the hearing panel encouraged the parole candidate to utilize the BPH-1045(A) form once the parole candidate was able to express fully causative factors that led to the crime that ultimately occurred, then this should be stated at the conclusion of writing out the hearing panel's articulated concerns for denying the parole candidate parole.

In all cases of parole denial, the parole candidate is always given specific, articulated facts, by the hearing panel that led to the panel's decision. You want to address the specific facts which are basically enlarging the panel's concerns for denying parole. This becomes particularly important if the parole candidate has not been fully forthcoming in past parole hearings where the expressed level of insight has resulted in different versions of circumstances or events, especially if the specific facts of the case were not discussed during the last parole hearing.

EXAMPLE

➤ The Specific, Articulated Facts Leading to the 2013 Board of Parole Hearings Denial

- *The hearing panel noted that when asked why I committed the underlying offenses, I have given multiple stories over the course of time...*

By now, you should have established the foundations into the reasons why the petition to advance hearing date is being submitted. Next, we move into developing the body of the petition. In doing so, your petition should contain an autobiography of the insights into your life, which may have contributed to the life crime ultimately occurring. This needs to be written to show the Board you have developed insight.

EXAMPLE

➤ **INSIGHT STATEMENTS POST 2011 PAROLE HEARING**

- ***Insight into my Life Prior to the Life Crime (Autobiography)***
 - *In the reflection of my life, my childhood was fragmented by a sequence of ...*
 - *Looking into the portrait of my childhood, as a child, I...*
 - *In my new reflections, I have...*
- **Insight into the Underlying Key Personality Trait Characteristics Preceding the Immediate Triggers to my Life Crime**
 - **Emotional:** *I wanted to be liked by others. I suffered from low-self-esteem...*
 - **Psychological:** *I believed the world evolved around me. The more I believed I was in control, the stronger my ego became...*

If the parole candidate's life crime was prompted by premeditated reasons, this needs to be expressed in the form of insight. However, in expressing your insight, be careful not to bring forth facts that can potentially lead to the Board believing you are being less than credible. This is particularly important for the parole candidate who was charged with a first degree murder, but was found guilty either by plea or jury trial of second degree murder. If you felt disrespected, betrayed, humiliated, frustrated, irritated, or angry, etc., these defects of character and shortcomings might be premeditated reasons for committing the life crime.

EXAMPLE

➤ **Insight into the Premeditated Reason for the Life Crime**

- *I admit that I had thoughts to robbing Mr. Smith ... I wanted to kill him because of ...*

First...

Second...

Third...

Fourth...

Expressing culpability has to be shown squarely. In other words, the parole candidate must be able to describe the insights into the immediate factors that resulted in the behavior that ultimately occurred. Remember, the FOCAL Examination (Chapter 3). You must have insight awareness for why the crime occurred, as it unfolded before, during, and after the crime taking place.

EXAMPLE

➤ **Insight into the Immediate Factors that Resulted in the Behavior that Ultimately Occurred**

- *On all levels, I realize that I am culpable for the murder I committed. I allowed my anger to be controlled by my bruised ego. I wanted to rob Mr. Smith because I felt he betrayed my trust and I convinced myself that I had to get even with him for playing me for a fool. When he did not give me his car willingly, I murdered him and took it because of my bruised ego and greed...*

After the base of the factual insights have been written out, the next section starts identifying the new evidence or new information and/or change in circumstances that will support the advance of a Board hearing.

EXAMPLE

➤ **Change of Circumstances that Support Advancing a Board Hearing - My Acceptance of Culpability and Responsibility**

- *I acknowledge that...*
- *My new insight has allowed me to confront my actions and heal the shame that has bound me. What I have discovered about myself is ... The change in circumstances that warrant the grant of an advanced parole hearing is that I have developed new insights into the unresolved questions of my credibility leading to my life crime behavior...*

Once the parole candidate has described the new evidence of new information and/or change in circumstances, the parole candidate should write out the steps he/she has taken to heal and understand the detrimental impact of his/her actions towards the victim, victim's family, the community, his/her own family and his/herself. This involves characterizing (describing) the signs of your remorse (what you learned, how you learned it, what do you continue to do to heal and understand the detrimental impact of your actions??)

EXAMPLE

➤ **The Steps I Have Taken to Heal and Understand the Detrimental Impact of My Actions Towards Mr. Smiths, His Family, the Community, My Family, and Myself**

- **Signs of Remorse:** *Being in prison over the last twenty years, has given me time to think, and do a searching and fearless moral inventory of myself; allowing me to reflect back on the crimes I have committed...*
- *Since changing my life around, I have gained the life tools necessary to ...*
- *Most importantly, I accept that I alone am responsible for the absence of life and the pain and suffering that is felt by everyone who was touched by Mr. Smith's presence. I have matured into a man who understands that even in lacking the necessary skills to cope with my own childhood fears; I did not have the right to take away Mr. Smith's life or take away the rights of Mr. Smith's family, his loved ones, and friends to enjoy their life experiences with him ... Mr. Smith had right to feel safe in his own home ... I had no right to betray his trust by inflicting my cruelty onto him...*
- *I have learned to manage my life and not fall into old destructive behaviors of the past for emotional and psychological survival. I continue to gain the tools necessary to cope with managing my anger and resentment towards my biological mother and father for abandoning me. I have learned to let go of my anger from my abusive childhood and teenage years. I have come to appreciate that I am a worthy person and an insightful survivor of a broken childhood. I believe that I am redeemable for society. I am no longer the irresponsible man I once was. I have come to see that the significance and importance of making amends for my conduct, is not to gain forgiveness for myself; but to take responsibility for my actions and to show my respect to those I have harmed. Finally, I have learned to accept that managing my defects of character will be a life long journey; a journey of compassion and serenity on the path to regaining a positive social rehabilitation...*

The next sections entail the following:

➤ **Institutional Behavior**

If the parole candidate is working or assigned to an A1-A position, show the Board what your job responsibilities are and describe any positive supervisor work reports or chronos.

➤ **Work Performance**

The petition may be supported by describing marketable skills that have also been acquired by the parole candidate, showing the development of his/her technical/life skills and leadership qualities while in prison. Be sure to show how they apply to you.

EXAMPLE

- *I worked as a Voluntary Education Program (VEP) Tutor/Clerk. I was assigned as a Clerk/Tutor in the in the VEP Program from January 8, 2011, to February 8, 2013. My Supervisors, Correctional Educators, thought favorably of my personality and work...*
 - *I currently work as the...*
- **Marketable Skills:** *I have developed technical/life skills and leadership qualities...*
- **Teaching:** *As a mentor in the Inmate Volunteer Mentoring Program (IV-MP), I have...*
- **Leadership:** *I have been the Chairman for Narcotics Anonymous since ...*
- **Verbal Communication:** *I have performed television and public speaking commentaries...*
- **Clerical-Education:** *I liaison with prison administrators, distant education coordinators...*
- **Written Communication:** *I have written editorials and published...*
- **Clerical-Legal:** *I am a qualified paralegal/legal assistant...*
- **Computer & Office:** *I have learned basic Microsoft programming and Excel programs...*

The parole candidate should also describe any self-help programming completed, or continuous, that he/she is involved with or participating in. This way, it can be shown with self-help programming, how the parole candidate is able to gain insight into understanding the underlying and causative factors of his/her life crime.

EXAMPLE

➤ **Self-help Programming**

- *In realizing that my past anabolic steroid addiction and self-image addiction was not only a factor in my criminal past; preventing me from leading a productive and pro-social life, I have participated in weekly NA meetings since August 9, 2007 to Present. I have been the Chairman for the Thursday night Narcotics Anonymous program for the past three years. I continue to participate in various self-help groups that help to promote living right. These programs include but are not limited to... I have completed and received certifications of completion in the following Correctional Learning Network program modules...*

Towards the end of the petition, the parole candidate may want to consider describing his/her parole plans. This might include showing three (3) reasonable parole plans (transitional housing, following transitional housing, emergency), and indicate any job offer and mandatory 12 Steps meetings and random drug testing that may be necessary.

EXAMPLE

➤ **Reasonable Parole Plans:**

- *I have three concrete and reasonable plans:*
 - *Plan "A" – Transitional Housing. I will parole to the following address for the first 90 days upon my release:*
 - *Plan "B" – Following a successful reentry transition, I will reside with my wife at:*
 - *Plan "C" – in the event of an emergency, I will stay at:*

A brief summary of the job position should be expressed, as well as any transportation assistance, and assistance with purchasing long term transportation. Selling yourself on what makes you valuable to a potential employer greatly increases the Board's reassurance that the parole candidate has reasonable and viable (workable/practicable) parole plans. In summing up the petition, the parole candidate should think about discussing what recommendations were made at the last parole hearing. Showing how the recommendations have taken to heart, may impact the way the Board decides the petition.

The Conclusion is last. Here, the parole candidate has the opportunity to leave a lasting impression. Here is where you tie everything up into why you should be granted an advance hearing date. *What have you learned? What do you value? How have you been guided? And, what do you embrace about yourself and life?* Writing out your conclusion must come from the heart.

CONCLUSION

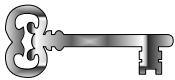
- *I am no longer 25 years of age acting out the destructive patterns of my abusive childhood, teenage years, and irresponsible adulthood. I am no longer looking for self-validation in the fear of the way how others may see and judge me. I have worked hard to find my identity and understand my destructive behaviors. I have learned to confront the pool of pain, grief, and guilt which I expressed in anger, aggression, and manipulation. I have learned to value myself as a decent human being. I humbly accept that I am not able to change the hurt that has resulted from my life crime. I however, strive to grow and be a pro-social influence in the lives of my loved ones and the community, so that I will be of assistance to those in need in the future...*

- *For the above reasons, I respectfully ask that the panel find that I have grown into a man who is worthy of being a positive contributing member of society, by granting me the privilege of parole suitability.*

Date:

Respectfully submitted,

*[Name]
[CDC #] [Housing Unit #]
[Name of] State Prison*



Key Thought to Consider: *Remember, you are not entitled to an advance hearing being granted. You are merely requesting the Board to grant the petition to advance your parole hearing date. So what you write, how you express your words, thoughts and insights do matter. Keep that in mind when reflecting on the length of time you have been away from your family, friends and loved ones. And, never forget that others have suffered greatly as a result of the crime that ultimately occurred.*

A sample Table of Contents might include the following:

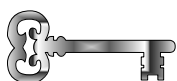
TABLE OF CONTENTS	Page
INTRODUCTION	
<i>Facts of the Crime</i>	
INSIGHT STATEMENTS POST [Year] PAROLE HEARING	
<i>Insight into my Life Prior to the Life Crime (Autobiography)</i>	
<i>Insight into the Underlying Key Personality Trait Characteristics Preceding the Immediate Triggers to my Life Crime</i>	
<u><i>Emotional:</i></u>	
<u><i>Psychological:</i></u>	
<i>Insight into the Premeditated Reason for the Life Crime</i>	
<i>Insight into the Immediate Factors that Resulted in the Behavior that Ultimately Occurred</i>	
<i>My Acceptance of Culpability and Responsibility</i>	
<i>The Steps I have taken to Heal and Understand the Detrimental Impact of My Actions towards [Victim's Name], His Family, the Community, My Family, and Myself</i>	
PRISON PROGRAMMING POST [YEAR] PAROLE HEARING	
<i>Work Performance</i>	
<i>Educational Development</i>	
<i>Self-help Programming</i>	
<i>Prison Leadership</i>	
<i>Institutional Behavior</i>	
<i>Laudatory/Support Chronos</i>	
<i>Personal Growth: Counseling/Therapy</i>	
<i>Personal Growth: Moral Inventory/Spiritual Nourishment</i>	
<i>Self-Improvement Book Reports, Essays, & Position Papers</i>	
<i>Community Outreach</i>	
<i>Personal Accomplishment</i>	
PAROLE AND RELAPSE PREVENTION PLANS	
RÉSUMÉ, FINANCIAL, JOB OFFERS & TRANSPORTATION	
LETTERS OF ATONEMENT	
LETTERS OF GENERAL AND REHABILITATION SUPPORT	
<i>General Support Letters/Rehabilitation Support Letters</i>	
CONCLUSION	

SAMPLE

Augmenting supporting documents might consist of the following page titles and/or sections:

**Documents In Support of the Petition to Advance
Parole Hearing Of:
[Insert Name, CDCR NO.]**

- ❖ Table of Supporting Documents
- ❖ Resume and Job Offers
- ❖ Release Plans
- ❖ Financial, Transportation, & Additional Living Support
- ❖ Support Letters
- ❖ Programming, Certificates, Awards, Etc.
- ❖ Recent Accomplishments
- ❖ Pictures of Family & Social Support Network
- ❖ Letters of Atonement
- ❖ Personal Growth: Spiritual Nourishment
- ❖ Laudatory Support/Chronos
- ❖ Health Care
- ❖ Self-Improvement Book Reports
- ❖ Personal Growth: Education
- ❖ Work Supervisor Reports



Key Thought to Consider: *If the Board denies the BPH-1045(A) to advance hearing, the Board's decision to deny a parole candidate's request for an advance hearing is subject to judicial review. In filing a petition for writ of habeas corpus, the parole candidate or his/her legal representative must be able to demonstrate the Board did not follow its statutory commands and internal policies in fulfilling its obligations (See Gilman v. Schwarzenegger, 638 F.3d 1101). The key here is when challenging the denial of a BPH-1045(A) petition, the parole candidate or his/her attorney must be able to advance (put forth) evidence the Board has arbitrarily denied or failed to respond to the request for advance hearing. Id. Distinguishing the above, once the request to advance a hearing is made, the Board must solicit (ask for) the views of the victim or VNOK before it grants a request for an advance hearing, and if the Board grants the request, it must provide 90 days' notice to the victim or next of kin before it holds the hearing. Id. However, if a postponement occurs before the hearing, the victims and/or VNOK are given an opportunity to waive the mandatory 90 days notice. If the notice is not waived, the parole candidate will have to wait the full 90 days before the advanced hearing date can be rescheduled and heard.*

Writing your Subsequent Hearing Parole Plan:

PAROLE PLANS

[Summary]

Plan A.

Residence: *[Name of Transitional house, address, and contact name and phone number]*

Employment: *[Name of Employer, address, and contact name and phone number]*

Employment: *[Name of Transitional house, address, and contact name and phone number]*

Contacts to Assist with Finding Employment:

- *[Name of person who is assisting, address, and phone number]*
- *[Name of person who is assisting, address, and phone number]*
- *[Name of person who is assisting, address, and phone number]*

I will actively participate in substance abuse meetings, self-help programs, therapy, and spiritual enrichment as permitted during my stay at Stalwarts.

Plan B.

Residence: Living with my *[Name of person, address, phone number]*

- Behavioral Counseling: *[Name of person who is counseling, address, and phone number]*
- Marriage Counseling: *[Name of person who is counseling, address, and phone number]*
- Narcotics Anonymous, *[Name of person who is sponsor, address, and phone number]*
- Meetings will be held once a week during the hour of 7:30 – 8:30 P.M.)
- Medical Insurance: *[Name of company who is providing insurance, address, and phone number]*
- Transportation: Walk, City Bus, Personal Vehicle
- Savings Account/Credit Building: *[Name of Banking Agency who is providing assistance, address, and phone number]*
- Recreation: College, Community Volunteer Activities, Life Skills Mentoring
- Spiritual Development: *[Name of spiritual organization who will provide spiritual growth, address, and phone number]*

➤

Plan C.

Alternate/Emergency Residence & Community Support Assistance

- *[Name of Transitional house, address, and contact name and phone number]*
- *[Name of Transitional house, address, and contact name and phone number]*
- *[Name of Transitional house, address, and contact name and phone number]*
- *[Name of Transitional house, address, and contact name and phone number]*
- *[Name of Transitional house, address, and contact name and phone number]*
- *[Name of Transitional house, address, and contact name and phone number]*

The above community support networks offer assistance with substance abuse counseling mental health services, Case Management, job training and release program services, etc.

SAMPLE

Writing your Subsequent Hearing Relapse Prevention Plan:

RELAPSE PREVENTION PLAN

(This plan is for anger, substance abuse, mental health, and to avoid criminality or the lifestyle)

Sobriety/Support Network:

- [Name] - N.A. Sponsor
- Narcotic Anonymous Meetings – Available Daily
- Narcotics Anonymous Meetings – Thursdays nights, “Space Cowboys Men’s Group” @ 7:30 – 8:30 P.M.
- Stalwart’s Transition Home Weekly Meetings – Steve Goralski, Founder/Director
- Spiritual Fellowship – Zen Center Los Angeles – Saturday Zendo Session
- Parole Agent and Supervisor
- Suzanne Red – Dual Diagnosis Counselor
- Antoinette Pink, LMFT – Couples Counseling
- Karen Color, LSCW – Individualized Behavioral Therapy
- Spiritual Advisors – Rev. Knight, Gary King Jack, Sensei, Rev. Wendy New, Father Gregory J. Boyd, Sister Mary Happy, and men in Stalward’s transitional home
- Family – Kim, (Wife), Elle (Sister), Alan (Brother), and extended family

Continuing Recovery Plan:

A Healthy and Well-Rounded Lifestyle:

Zen Meditation, Ask for help, Having a sponsor and sponsees, Proper Diet, Exercise (moderately), Journaling, Self-Honesty, Humility, and Daily Sitting

- Rely upon the ingrained N.A. step program, practicing the steps
- Establish a healthy balanced lifestyle by eating properly and exercising
- Attending N.A. meetings regularly (local and transitional home)
- Utilize support network for successful integration into society
- Maintain close contact with N.A. sponsor and support network
- Regular Zendo (Zen-Buddhist) attendance and volunteer activities
- Maintain employment and being financially responsible through budgeting
- Be humble and ask for help
- Daily meditation and spiritual reading
- Stable employment
- Stable residence
- Know my local resources
- Working Step 10 – a daily inventory
- Volunteering for community service with Fair Chance Project and Families ACT!

Problem Solving Skills or Coping Skills for Relapse Prevention:

Positive Self-Talk → remind myself how far I’ve come

Keeping it Real → be honest about everything

Time Outs → step back and evaluate

Make Good Choices → think before deciding/read my Relapse Prevention Card

Self-Awareness → know triggers and pitfalls

Acceptance → practice serenity prayer

H.A.L.T. → No important decisions when hungry, angry, lonely, or tired

Journaling → Write my challenges, results and plans down

Stop/Time Out → Take a step back from a situation

80/20 Rule → Spend 20% of the time identifying the problem and 80% of the time identifying the solution

Know Triggers (internal & external):

- Recognize stressors such as rejection, fear of the unknown, financial, family
- Wrong places, people, music or things that remind of steroid usage
- All illegal drugs and alcohol
- Poor marriage stability
- Any mood or mind altering chemical
- People, places or things that have anything to do with criminal activity
- Story telling that glamorizes criminal lifestyle
- Being yelled at, talked down to, or feeling belittled in front of others
- Aggressive, inconsiderate or invasive people
- People questioning my credibility, questioning my delusional perceptions, and allowing others to over-inflate my ego
- People emotionally hurting me

Warning Signs:

- ✓ Unresolved stress
- ✓ Difficulty in sleeping
- ✓ Isolation
- ✓ Procrastination
- ✓ Frustration
- ✓ Increased heart rate
- ✓ Increased body temperature
- ✓ Financial irresponsibility
- ✓ Negative self-talk
- ✓ Blaming others
- ✓ Repressed feelings
- ✓ Impulsive behavior
- ✓ Being resentful and/or judgmental
- ✓ Stockpiling emotions

High Risk Urge Control Plan:

- Stop or change my dangerous criminal thoughts by yelling STOP to myself and substitute any negative thought of being arrested or humiliated at work, along with causing my wife/loved ones unnecessary grief.
- Think about what needs I am trying to satisfy through re-offending and try to find some other ways of satisfying them.
- Talk to a friend, counselor, spiritual advisor, sponsor, or parole officer, or call the 211 crisis hotline
- Remove myself from the area and go someplace where I cannot offend (to someone else's house, to the police department, parole office, spiritual center, etc.)

SAMPLE

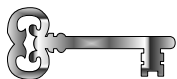
Chapter Nine

Tools for the Social Connection

Cultivating Steps to Freedom

Now that you have a general idea of the parole suitability hearing’s design, the administration of the proceedings as well who attends, what the Board expects of you and, most importantly how to format your own PRO-Plan résumé, it is now time to develop living skills for the social connection. Having thrown out the VIPER (Vanity, ego, pride, ego, and rationale) in writing out your insights and remorse you may still have questions and are unsure of how in-depth you should go, exposing your past to people you have never met. Remember, developing your parole plans involves throwing your VIPER out the window and telling the story of your life as only you know it. Because it is your story you should have confidence in presenting it because you’re the one who has lived it. Nevertheless, merely telling the story of your life is not enough to regain your lost freedoms – you are going to have dig deeper into your heart and further address the demons that contributed to your underlying behaviors that ultimately led to committing the life crime – especially if alcohol, drugs, or some other addiction was the reason why the crime occurred.

In addressing the demons of substance abuse, for many men and women who are serving indeterminate prison terms, the life crime was the culmination of years of drug and alcohol abuse. If this applies to you, it becomes important to become involved in and work a 12 Step substance abuse program. The importance of working a 12 Step program is because sobriety is different from mere abstinence. Sobriety is more than just no longer using drugs or alcohol. Sobriety is a daily plan of action to keep you clean in body, spirit and mind. It means an active program of recovery because relapse is not an accident. There are a number of 12 Step programs that deal with working on your defects of character. Whatever 12 Step program you decide to become involved in, it is important to understand that the hearing panel is not interested in your capability to merely recite the 12 Steps – rather, the hearing panel want’s to be reassured that he/she is able to actually discuss how the steps work in their lives and how the defects of character are recognized in the crimes that were committed. For example, if you acted with cruelty and your actions created victims, then you are going to have to show the hearing panel that you have truly been working the steps to atone for your actions and make amends for the harm you caused.



Key Point to Consider: A good strategy is to further prepare for anticipated and potential questions from the panel. If you are sincerely involved in the NA/AA program, you should be able to discuss the four primary texts (i.e., “Basic Text,” “just for Today,” “It Works How and Why,” and “NA/AA Working Guide” workbooks). These texts will be provided at no cost to the prisoner by writing to the NA World Services – 19737 Nordhoff Place, Chatsworth, CA 91311-6601 - Telephone No. (818) 773-9999. Note: Interested prisoners can write to request to be matched with an anonymous NA sponsor who will help the requesting person work the 12 Steps through correspondence. You can write to: Sponsorship Behind Walls/Southern California, c/o Southern California RSO, 1937 S. Myrtle Ave., Monrovia, CA 91016 USA

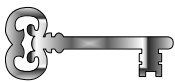
For many of the parole candidates who suffer from addictions, compulsions, and recurring negative traits behavior, it is important that you are able to present to the hearing panel how you understand what it means to work the 12 Steps of your 12 Step program. Through out your lives, if you have suffered from addictions in one form or another, and you are now sincere about changing your life and becoming a pro-social contributing member of your community, then you have already begun the hardest journey on your path to becoming the new YOU! After all, this is why you are learning how to prepare for life by building life skills that will help you from making a choice to relapse into criminal behavior. But, like all things in life the challenge first has to come from your decision to want to stay out of prison. The simple truth is you were not born a criminal, addict, or alcoholic. Yet, often, we turn to these vices to help us cope with the hardships we have experienced in our lives, like in our early childhood that helped shape and motivate the person we have become in the present – sitting behind the walls of prison. There is an old adage about alcohol that illustrates this: *Man takes a drink. Drink takes a drink. Drink takes a man.* Applying this wise saying to the various forms of addiction, compulsion, and negative trait behaviors, one can internalize that at the root of all things unmanageable, lies pain.

“A Mindful Thought”

Silence and solitude are the marks of spiritual maturity. They can lead to peace and bliss. The spiritual life is an inner life. It cannot be attained on the outside. The spiritual life is its own reward and seeks nothing beyond itself. Once we achieve inner peace and conscious contact, we want to overflow. It is the mark of truth and love to move toward goodness and transcendence.”

John Bradshaw, “Healing the Shame that Binds You”

In preparing for the Board, other options for long term addicts include: obtaining a letter from a mental health professional who will indicate that he/she will provide you with substance abuse counseling on the outside; transitional housing with a 6-month-to-1-year commitment that includes daily individual and/or group therapy; an outside sponsor will provide accountability immediately upon release; a letter from other prisoners attesting to working the Steps together with you; and a drug and alcohol inventory detailing the exact time and quantities of your past drug consumption. This inventory will also identify the progressive nature of addiction, as well as identifying how a combination of drugs may have affected you. Affirm to the hearing panel that any residence offer from family members or loved ones comes from a residence that is drug and alcohol free. Further, the parole candidate might consider writing book reports (bibliography) relating specifically to substance abuse. The reports can be based on AA/NA literature or other recovery-related books, brochures, pamphlets and even drug/alcohol related substance abuse magazine articles. The reports should be one page in length with half of the text dedicated to what you read and the other half devoted to how it applies to your life (See sample book report below).



Key Point to Consider: When writing your PRO-Plan or book reports etc., a strategy to consider is to follow the ABC’s of basic and business writing: Accuracy, Brevity, and Clarity. Accuracy is vital to explaining yourself. Brevity is making your points by staying focused on the intended topic of discussion. When expressing your writing to the hearing panel, your oral presentation should not exceed more than 5 minutes. Your writing should be dramatic and attention-grabbing. Finally, Clarity is covering your topics in brief, wisely, and clearly when presenting them both in writing and speaking. After you have completed your writing, put it away for a day or two, and come back to it later. You will find errors, thoughts and words left out, etc... Have someone you trust look over your writing and provide criticism. The goal of your writing is to logically link your thoughts together so that your sentences flow naturally. Your purpose is to make sure that your

writing SHOWS your cohesive unit of thought – you want to paint the picture and complete the circle.

Book Report
“*SITTING INSIDE*”

Buddhist Practice in America’s Prisons

Author: Kobai Scott Whitney

By James Leland DeBacco {08/12/13}

Author Scott Whitney, is a writer and magazine editor who along with his wife, Sita, took an interest in the spiritual possibilities for men and women who find themselves incarcerated in prisons throughout the United States. Recognized as the original founders of the Prison-Ashram Project in 1973, most prisoners and prison officials had never heard of yoga, meditation, or Buddhism. The project quickly became their life’s work and continues on today, with nearly half of their staff now former prisoners, having benefited from their practice of these ideas and disciplines while they were locked up.

Sitting Inside directly addresses the issue of empowering prisoners themselves, independent of external changes, however badly these are needed. This book focuses on our best hope for positive change lies, tragically, in the empowerment of individual prisoners to become deeper, more caring human beings despite the formidable odds against them. This book teaches the reader to open his/her heart and mind, whether Buddhist or not, and find within themselves the valuable insights and practices here for the cultivation of universal spiritual qualities that will help relieve suffering in any environment. The essence of the message being conveyed, is that we are truly all doing time, and all on the same journey. Understanding this is our best hope for the future.

Kobai Scott Whitney was a former drug addict who was given a six month sentence nearly 20 years ago for drug-related charges. His time incarcerated became the turning point for his history as a Buddhist. He writes that his days in prison presented many difficulties and not a few dangers. In addition to meditation and freedom from drugs and alcohol, he found that he enjoyed helping other inmates with their homework or with writing letters. In looking back, the author writes about how the simple combination of daily meditation, freedom from addiction, and pro-social or useful activities was a formula that helped him prosper spiritually and emotionally during a time in his life that could have been filled with anger anxiety, and bitterness. Years later, this three-part formula continues to be the mainstay of keeping his life together.

In reading this book, what I am able to take away from what the author writes about, is that inmates who want to change their lives and find peace are usually on their own. If personal change is to happen, it will be in spite of the prison environment. Prisons are places of great suffering, violence, noise, hatred, and-every so often- friendship, laughter, and kindness. I accept that although not entirely unlike the outside world, life in prison is more negative, intense, and unyielding than life outside. Although meditation, compassion, and precept practice have helped me and many others get through our prison lives, these are not some “chicken soup” cure that will soothe every mental wound and pacify every emotional storm. The truth is, because I am in prison, everything is not alright. And, meditation itself is difficult at times. Like the author, my experience with Buddhist practice is mostly within the Zen and vipassana traditions of North America. *Zen* is a Japanese word derived from the Chinese word “*Ch’an*,” which refers to focused, sitting meditation. Vipassana, sometimes called “insight meditation,” has become a daily practice for me. At the core of my Buddhist practice, I sit still and observe my own mind. In doing so, I am able to experience a deeper sense of pain, suffering, and feelings of injury I hold within myself. With this insight, I have openly accepted that practicing Buddhism in prison, and within my marriage, is an act of bravery, not an act of escape; it truly means I am committed to taking up the life of a Buddhist Shambhala (Peaceful Warrior).

The APTITUDE Outline

One of the problems I discovered with working and writing my own PRO-Plan résumé was my ineffectiveness in how I actually intended to put my plan into action. The formula I came up with is called the APTITUDE Outline. The APTITUDE Outline represents measurable goals I feel all parole candidates can accomplish to achieve a successful parole by implementing a simple plan of action that encourages developing life skills by promoting personal and social growth – APTITUDE being the key element to becoming successful on parole.

Assess self and establish a personal relationship with family, friends, and community

Prioritize PRO-Plan vision, commitment, and determination

Target and identify potential barriers to relapse prevention

Integrate rehabilitation model with strategies for PRO-Plan success

Trust in self-awareness to defeat potential barriers and anticipated obstacles

Undertake personal commitment to achieving parole success

Deliver on personal goals to acquire social independence and acceptance

Evaluate, focus, and energize the promotion of rehabilitation organization

The purpose of the APTITUDE Outline is to define your key actions during the first six (6) months to one (1) year of parole. Developing the APTITUDE Outline will provide the parole candidate with an action map to show the hearing panel exactly how he/she intends on putting their PRO-Plan into effect. Show how your individual parole board résumé can be put into action. Keep in mind that your descriptive written plan can be diminished by the mere lack of a readiness strategy. The focus your readiness strategy should be to:

1. ***Reconnect with yourself:*** Describe key actions demonstrating a reconnection with the self. (Example: giving up drugs/alcohol; replace with spirituality or engaging more in sports, self-help classes). Focus on your rehabilitation success by identifying, recognizing and targeting primary concerns that will affect a positive reconnection with you. Follow this strategy by listing your own ideas that will help you to understand the priority of developing balance with yourself.
2. ***Reconnect with family:*** In this key action, the parole candidate focuses on strategies to building trust. Listing the ways a parole candidate can reconnect with/her family is important.
3. ***Reconnect with society:*** The hearing panel will want to see your key action plan demonstrating you can reintegrate into a social network. You will need to have your own idea on how to accomplish you reintegration back into a mainstream community environment (reconnect by calling/writing old friends who will not influence possible relapse, etc.

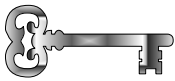
By implementing the APTITUDE Outline, the parole candidate will show the hearing panel a viable key action plan to live, work, and interact responsibly with members of the community in efforts to meet parole expectations, your PRO-Plan objective, and achieving a certificate of parole/rehabilitation.

Cycle of Change

In the evolution of time, change is the one variable to be constant, because change over time is constant. Each breath we take starts a new beginning. Each exhale we expel, takes us into the future. Life acts in the same way. The parole candidate needs to be open minded and prepared to discuss how he/she will adjust as time changes. There will always be changes in life affecting the greatest of plans. Being

flexible in your thinking will allow for greater opportunities to being successful on parole. Developing any parole plan is only reasonable and effective if the parole candidate accepts there must be flexible thinking attached to the plans of parole and rehabilitation. As needed, it will become necessary to update, modify, and/or revise anticipated parole plans during the period of parole. Adapting to time requires an equal adaptation to each moment in life. The only thing we can be sure of is being in the moment – But, even being “*in the moment*” comes to an end.

Logically, I am not disillusioned to the fact that even in the best of circumstances, being paroled after serving a life term sentence, will pose stressful conditions not only on myself, but for my loved ones as well. Keeping this in mind, it becomes imperative to your parole plans that you must be able to express beyond a bare minimum, warning signs that might send you into a criminal relapse and how you intend to address the problems when they do arise – because they will. The way I see it, we need the tools of restraint to keep us grounded. Learning how to trust in yourself will allow others to believe too, that they can trust in you. Allow your actions to speak for themselves. And, in turn, embrace the opportunity and privilege of believing in YOU. If you produce evidence that you believe in yourself – just maybe, the hearing panel will believe in you too.



Key Point to Consider: Overall, your PRO-Plan, and general substance abuse relapse prevention strategy are only one key to the overall life skills development for the Board. A good idea is to also work with someone more knowledgeable to delineate a specific relapse prevention plan, replete with listing of triggers, or high risk factors/situations, and plan on how to avoid those emergency extrication tactics and proactive strategies to engage with the non-using, supportive, or AA/NA community.

In developing your life skills for relapse prevention, another strategy would be to carry with you in your wallet or purse, a Relapse Warning Card. The Relapse Warning Card can be used to help the parole candidate recognize when a potential relapse may occur and how to apply the like skills learned that keeps you from acting on those shortcomings that might lead to triggering a relapse. Using the sample format below, will help you show your strategy to the hearing panel and support how you intend to overcome the urges, impulses, or thoughts that might arise when you find yourself faced with the challenges of living free.

FRONT SIDE OF CARD

Relapse Warning Card

When I get a strong urge, thought, or impulse to commit a criminal offense, I will sit down and carefully read over the following:

1. A fantasy, thought, or impulse to commit a crime is not unusual. It doesn't mean I have lost control or failed. And, it doesn't mean I have to relapse.
2. If I feel scared or guilty about my criminal fantasy, thought, and/or impulse, I will remind myself that I have the power over them. I don't have to give into them. I have other choices. I have options that can satisfy my needs besides relapsing.
3. I will think of this as a learning experience. I will look at my life and try to figure out what has led up to the fantasy, thought, or impulse. I will try to figure out what need I am trying to satisfy, and I will brainstorm all the other positive, non-harmful ways I can meet my needs.
4. I will review my relapse warning card regularly on a daily basis, to prevent and stop behavior associated with the warning signs of relapse.
5. If I am still having trouble, I will think about who I can call to talk to. I will look at the phone numbers of these resources on the other side of this card and call until I can talk to one of them about my relapse warning signs.

BACK SIDE OF CARD

Names of People I Can Contact If I Feel the Urge to Relapse

Name and phone number of a friend:

Name and phone number of counselor:

Name and phone number of sponsor:

Name and phone number of parole agent:

Crisis hotline phone number:

**Above all, I will remind myself that I am in control.
A fantasy, thought, or urge does not make me a criminal.
I am in control. This urge will pass.**

Living Today, Better Than I Did Yesterday

Planning for community reentry is the most important factor assuring success, but it does not come easy to face the challenges of society from a prison cell. Your PRO-Plan should describe your understanding of the difficulties of returning back to society. As a parole candidate, you have an obligation to show the hearing panel that you understand the challenges you will face when leaving prison. Having this awareness, you should be prepared to show how you intend to live today, better than the day before once paroled. The way to do this is to show the hearing panel that success in the community is accomplished by resolving potential barriers. It is important to show how planning for community reentry will involve describing in detail the steps you have taken in preparation of potential drawbacks and what your plans are to counter these roadblocks to success. Often, the most difficult challenge for the parole candidate preparing for the suitability hearing, who has no visible family or general support, is to find a place to live, food, & other services in his/her release area. Hopefully, the below strategies will be helpful.

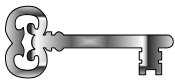
Many suburban areas have missions (religious based shelters) offering meals during the day and shelter at night. The local Department of Social Services may have listings for emergency housing. A parole candidate needing emergency housing should try to contact the closest office in the area he/she intends to parole to. The Salvation Army also may have services available (live-in programs for men/emergency housing for women and families). Live-in drug treatment programs can also be found in some areas. You may also want to check with your regional parole office. Some parole offices work with local boarding houses, hotels, or other short-term housing facilities. The Young Men's Christian Association (YMCA) may have shelter for single men. The Young Women's Christian Association (YWCA) may have shelter for single women with children. You will list these resources and keep them in the Appendix with addresses, phone numbers and contact person names. Another potential resource is a local church or minister who might help you access available programs. Often, a good resource is the parole office in the area you intend to reside. They will also help you with the process of registering with the police or sheriff, if this applies to you.

Men and Women, who served in the armed forces, can check with the local Department of Veteran's Affairs (VA) office to access benefits like job training, health care, drug/alcohol treatment, services for counseling or post-trauma assistance, and Veterans housing benefits, etc... There may be local groups or individuals providing food and clothing and job-seeking assistance. Keep in mind that all VA centers will also have VA representatives on hand that will be available to assist the veteran with VA enrollment (1010 EZ Form) for collection of any benefits owed or due. For example, military veterans who

have been discharged with anything other than a *Dishonorable Discharge* – may qualify for limited benefits, even if the separation from the branch of service resulted in an *Other than Honorable* or *Bad Conduct Discharge*). All veteran parole candidates should take advantage of contacting their local VA office to find out if he/she qualifies for benefits. The hearing panel will give weight to those parole candidates who have given their blood, sweat and tears in honor of serving in military uniform. The hearing panel looks favorable on any VA assistance that may be available when reviewing a veteran's parole plans.

Hope Lives in Finding a Job

As mentioned earlier, showing the hearing panel you have a verifiable offer of employment is important because absence of such an offer usually is an insurmountable stumbling block to receiving a parole date. As a matter of course, each parole candidate will have to decide how best to describe their efforts with finding employment upon release. For my own research, I found it difficult obtaining an official letter of employment intent because of the current economic situation nationwide. I took a different approach and decided I would personally write an inquiry letter (communication before actual request) to potential employers. I expressed my understanding of the current job market recession and its affect on a company's inability to promise me employment, but the inquiry asked the representative of the company to, at least, acknowledge that once I was paroled they would be in a better position to assist me with securing employment in their company – at the least, provide me with an interview.



Key Thought to Consider: *If you send an inquiry letter, ensure you have a named individual who is currently employed in that company/organization to send your letter to. Have a friend or family member contact the company or hit their website where Personnel or other appropriate members of staff are listed. You cannot send a inquiry letter in care of "PERSONNEL" and hope it lands with an interested employee – you must communicate with a known person working in the company. Find someone to generate a well-planned letter that contains no errors or misspellings and is addressed and formatted correctly (See instructions on how to prepare a standard business letter, below).*

When writing your PRO-Plan, be sure to identify the job position, how many hours a week you will work, what your rate of pay will be, and the period of your time and salary will increase at the identified position. Include the anticipated job duties. Use your experience in the criminal justice process to show your growth in the development of your values, actions and dignity. If you are unable to readily find a potential employer to provide a letter of employment or job training acceptance, most urban areas have an Employment Development Department (EDD) office where assistance can be provided. These offices have specialists you can contact and request information on your job search.



Note: *Keep copies of your letters to any place you contact, and any answers you receive to verify your attempts to get leads, or find a job. Another resource is the Department of Rehabilitation office in your local community. In larger urban areas, these offices will have specialists in handling parolees. Again, writing them could prove valuable in developing your Plans "A," "B," and "C."*

A further resource for employment leads is the old standby: Help Wanted ads in the newspaper or internet. It does not hurt to write a potential employer advertising in the newspaper. Explain your situation and ask for background of the company and your interest in potential employment. Again, their written responses to you can be used in your Appendix as part of your efforts in finding a job. Keep in mind that most Help Wanted ads now have e-mail addresses – not actual street addresses. An outside-the-prison resource is needed to e-mail your contact with those companies. Additional resource might be to contact your network of friends and relatives to locate job opportunities. A friend who recently paroled may obtain

work after release and you can tap into that resource as a potential lead. Write and find out. If you are unsure if you are eligible for job assistance, a good resource is to contact the Department of Social Services in the area you intend to parole. Also, you can write to your regional parole office to learn if they have job assistance, training, or related resources in their area of jurisdiction. This is now more accessible with the changes in realignment, making it possible for life prisoners to seek out benefits by participating in long term offender programs provided by the Division of Adult Parole Operations (DAPO).

Finding employment and/or having a suitable job offer is best supported with the ability to show the hearing panel you have 1) written out a job résumé, 2) obtained or have information on how to obtain your Social Security card, 3) obtained or have information on how to obtain an ID/Driver's License card, and 4) obtained or have the resources to provide a copy of your Birth Certificate in conjunction with your job offer(s). By doing this, you are sending a message to the hearing panel that you are organized and ready to become a contributing member of society once paroled. Without a doubt, the hearing panel will likely view your organizational skills favorably. If you need to obtain a copy of your Birth Certificate, this can be accomplished by writing to your local County Recorders Office, in the County of where you were born. There is a nominal fee for copies of all records obtained.

The Record's Bank

The task of writing your PRO-Plan requires organization. To manage records when organizing your files, it is a good idea to keep a "records bank." The records bank includes keeping a daily journal and a separate record of your self-initiated correspondence. If you mail out a letter to a potential employer, write down Name of Contact; Name of Company or Program Service; Contact Person Responding; Date of Contact; and Follow Up. Use your daily journal, and record your efforts in your Job Contact/Rehabilitation Record Sheet. (See sample below) The purpose behind keeping your records is to preserve documentation of your attempts to secure resources and employment. You will find it much easier in the long run to have all your correspondence recorded and banked for easy reference. Date all correspondence you send out, and place the date you receive letters back by marking the letter itself and/or envelope (keep the envelope too, as added verification your return communications are genuine). It goes without saying, but I will say it anyway, DO NOT fake any of your correspondence or contacts – the hearing panel may just make a few calls or send out e-mail for verification of your documents. Your sincerity in your rehabilitative efforts is shown by the quality of your work.

Contributions to Society

In writing the PRO-Plan, it is important to understand that the only two requirements for parole plans are: 1) *have realistic plans for release*, and 2) *have marketable skills*. Essentially, nothing else is required, but the categories outlined in this chapter (and throughout the text) add to your arsenal of strategies to convince the hearing panel you are suitable for parole. Aside from the résumé I mentioned, there are other things you might consider to strengthen the picture you want the hearing panel to see. Namely, how do you intend on making your contributions to society? In other words, how do you plan on showing responsibility? Presenting an itemized expense sheet, projecting potential income and having an understanding of managing money once paroled, is a responsible way to show the hearing panel that you have taken the time to research the financial trends that fluctuate periodically and have given considerable thought to "*how you intend on becoming a responsible citizen once paroled into the community.*"

Residential Re-entry Housing -Anticipated Monthly Budget Plan
Projected Monthly Income: \$1,280.00*

Parole Applicant: [NAME]

Initial Re-entry Expenses**Expenses Total**

Clothing	\$250 (Thrift Store Purchase 1x per. 6 month period)
DMV/Identification	\$10 (discount for parolee)
Therapy/Counseling	Included with On-Site Residential Re-entry Housing
Auto Registration	N/A for the first 6 months of parole (unless purchase occurs sooner than anticipated)
Total:	\$260.00

Monthly Cycle Expenses

Mortgage/Rent	Included with On-Site Residential Re-entry Housing
Utilities:	Included with On-Site Residential Re-entry Housing
Electric/Gas/Water	Included with On-Site Residential Re-entry Housing
Waste/Recycling	Included with On-Site Residential Re-entry Housing
Smartphone/Internet	\$50 (Boost Mobile – Unlimited Plan)
Auto Payment	\$30 1x per. Month for Public Transportation (Bus/Train/Family) during 3-6 months while saving for a vehicle.
Auto Insurance	N/A for the first 6 months of parole
Gas/Traveling	N/A for the first 6 months of parole
Entertainment	\$20-\$50
Food	Included with On-Site Residential Re-entry Housing
Total:	\$130.00

Incidental Expenses

Medical/Dental	Health Net. HMO (Spouse Benefit)
Clothing Replacement	\$150 or as needed to replace work clothes and worn/torn clothes
Auto Service Maintenance	N/A for the first 6 months of parole
Self-Maintenance	\$50 (toiletries, grooming, laundry, etc.)
Other (Walk Around Money)	\$25 per week (following employment success)
Total:	\$225.00

Job Training/Certification Expenses

Total:	Included with On-Site Residential Re-entry Housing
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College Tuition Expenses

Distance Learning (On-Line)	Note: <i>Tuition expenses will vary depending on living factors. \$1300 (6 Units per Semester at Ohio University). Tuition will be available from Joint Marital IRS Tax Return.</i>
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Savings Account: Car/House/Misc.

Open with \$200.00 first month startup with addition of \$100-150 every paycheck period. (Min. \$400 per month each following month)

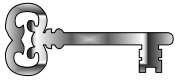
Emergency Expenses:

\$100.00 Minimum in Cash Debit Card (e.g., MasterCard/Visa, etc.)

Grand Total Projected: \$1235.00

Note: Anticipated earnings are based on gross pay. Net earnings will dictate changes in the monthly budget based on the State of California's Minimum wage earning pay scale of \$8.25 an hour and cost of adjusted living expenses.

SAMPLE



Key Thought to Consider: *If you are preparing your PRO-Plan on your own, finding a transitional house to accept you will be difficult. To help you reach this goal I have included the contact information for the “Intervention America” website. This is a very good site for anyone looking to make a connection with a sober living home or transitional house in their perspective community/area of intended parole. Intervention America will provide a National Resource on Recovery directory, upon which you can write to the listed contact addresses for information on sober living homes and transitional housing support. Life Support Alliance is also a good resource for available State-funded and private BPH approved sober living and transitional housing programs.*

“Interventions America”

<http://soberliving.interventionamerica.or>



Note: *Every County in California has a Department of Rehabilitation Services program that helps people with disabilities find and keep jobs. Apply for these services immediately when planning for release. Look in the phone book blue pages (or internet) under Department of Vocational Rehabilitation or search the internet for Vocational Rehabilitation in your County/State. California has 58 diverse counties each having some resources available to help you at the time of release. Be sure to check for Veteran Services Offices (if applicable), Social Services, Employment Development Department (EDD), and library, spiritual centers and resource call centers (dial 211 is available in most California Counties).*

Surviving the Emotional and Mental Traps

Every person who exits from jail or prison must confront a series of basic survival needs with ongoing change. In order to meet these needs, a realistic plan is essential! In writing the PRO-Plan you need to be thinking ahead and develop you plans in short term and long term layout. It is also a good idea to incorporate a “first week” action plan, which can help you to navigate your way through the emotions you may be confronted with upon your release. You should project into your Pro-Plan a positive attitude by planning for the future but living in the present. It is important to recognize the most common mental and emotional traps everyone has to face with being paroled:

- 1 Post release shock and disorientation
- 2 Lack of ability to follow through
- 3 Suppressed rage and hostility
- 4 Mistrust and withdrawal from others
- 5 Deep anxiety and depression
- 6 False expectations: self and the world
- 7 Fear of failure
- 8 Culture shock: cannot adjust to change
- 9 Personal and cultural inferiority complex
- 10 Compulsive neurotic (obsessive) behavior: no life balance
- 11 Poor self-esteem
- 12 Addictive tendencies (many forms)
- 13 Self-destructive attitudes and actions
- 14 Emotional instability
- 15 Fragile, vulnerable grip on life

STANDARD BUSINESS LETTER FORMATTING

When communicating with business, State/federal agencies, or other entities, writing letters requires following basic letter writing rules. Above all, when writing a letter, to seek assistance in parole and rehabilitation support, try to keep the letter on point. By keeping on point, you keep the reader focused and engaged with the matter being reviewed for consideration. Use the following letter format below as a guide to formatting/writing your own letter.

January 15, 2014

John Hardrock
J & D Construction
1234 Bridges Lane
Freedomville, CA 91234

RE: EMPLOYMENT INQUIRY (or state reason for requesting inquiry)

Dear (Sir, Madam, or Contact Person)

My name is I am writing to you in the hopes of receiving a reply from you. I am a term-to-life-prisoner in the California Department of Corrections and Rehabilitation. I am looking for assistance in obtaining (state your need: *employment, housing, etc.*) upon my release.

In preparation to writing my parole plans, I am requesting that the provide me with a letter of support stating that will be available to help/assist me in preparing for my release. If you or your organization is able to assist me, I would appreciate the

I look forward to the opportunity to interview with you, and show you I can be a valuable asset to your company/service. Please send your reply in the SASE I have provided for you.

Thank you in advance for your understanding.

Sincerely,

Derek P. Freedom [Sign your name]

Derek P. Freedom AS-1234 [CDCR #]
[Name of Prison]
[Address of Prison]
[County/Zip Code]

SAMPLE

[Put address of residence here]

DisplayText cannot span more t

John Black

Objective General Employment [Place Objective here]

Experience PRO-TEMP Job Agency **South Ridge, SC**

General Laborer

- Mason's Helper (tied rebar, dug footings, poured concrete, brick laying)
- Plumber's Helper (industrial copper brazing / general plumbing duties)

R & R Construction **South Ridge, SC**

Construction Laborer

- Job Site Helper (ditch digging, railroad restoration/maintenance, framing assistance, construction clean-up, tying rebar, foundation preparation, etc.)

Merchant's Refrigeration **South Ridge, SC**

Warehouse Laborer

- Warehouse Helper (lumper, labeling, shipping/receiving, dock worker, order puller, inventory control, pallet yard organizer, light custodial work, electric/manual pallet jack [dry/frozen inventory] and forklift operator)

Additional Qualifying Qualities:

- Hard worker, team player, motivated learn new tasks quickly
- Loyal, get along with others, good communicator
- Punctual, safety conscious, drug free and always ready to work hard/efficiently.

Work History

1993-Present

1993-1992

1992-1991

1991-1990

1989-1997

1989-1985

- California Department of Corrections and Rehabilitation
- Executive Protector/Self Defense/Fitness Instructor
- Personal Security Specialist
- Manpower Temp. Agency/General Laborer and Restaurant Industry
- U.S. Marines (Discharged: 4/11/1997)
- U.S. Marines

Education

- High school Diploma, Vocational Trade Certification (AutoPaint/Detailing; Entry level Auto Body Repair/Refinishing. Paralegal/Legal Assistant Diploma, Associates Degree and currently pursuing Bachelor of Specialized Studies Degree (Ohio University)

Interests

- Bike riding, running, gardening, carpentry, computers, restoring Harley Davidson motorcycles.

References

- Gilbert Jacksi, Geri Vilva, Dr. Smith, etc. (Contact information available upon request).

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Chapter Ten

The Final Hurdle

Responding to Questions

The answers you provide to the hearing panel's queries affect your *credibility for suitability*. The last thing the panel wants to hear is you are at a loss for words to explain yourself. Also, the panel does not want to hear you boasting or sounding self-centered. When the parole candidate is asked about a 115 rules violation he/she has received, you should look at this as an *opportunity* to describe how you learned from the experience and then chose to apply that lesson to other areas of your life, such as trying to understand situations from the perspective of others who were involved. Also, another strategy is to show how you explored the situation leading up to the rules violation and explain how you later analyzed the reckless behavior and how you have recognized the defect and the correct way to avoid further issues. Every question from the panel should be viewed as an opportunity to show what you have learned and who you are now. The question you have to ask yourself is, "Who are you now?"

When responding to questions, the parole candidate should anticipate answering questions as simple as, "*Did you commit this crime?*" The best answer is a simple yes or no. There will be ample opportunity to explain the extent of your involvement during the hearing. The next question you should anticipate is, "*Why did you commit this crime?*" Many parole candidates struggle with this question. So what do you say? Always remember there is NO justification you can provide a hearing panel that will excuse you from breaking the law. The fact is, a crime is either mitigating or aggravating – there can be no excuse because if you *violated the law*, then you were wrong in the first place. The best response, without justifying your actions, is to discuss with honesty and directness the circumstances that led up to point where you chose to break the law. That's the best way to address the "rabbit trap" question of "Why did you commit this crime?" But, aside from your responses, if the parole candidate has been unable to answer such a hearing panel question, then the best course of action is to simply say so, but this non-response can be costly. Many reasons can come into play for not being able to answer such a question – feeling intimidated by the hearing panel, being nervous of the hearing process, being concerned you will answer incorrectly, etc.

When faced with such a situation during the hearing, a strategy is to make an effort beforehand, and examine his/her life before the crime and look for contributing causes such as drugs and alcohol, mental/emotional abuse, prolonged stress, and any other underlying problem that might have been present at the time of the life crime. Be careful not to blame the crime on any of these factors – the hearing panels are trained to recognize any opportunity to find when a parole candidate is not accepting responsibility. Blaming the crime on the fact you were high or drunk, does nothing but support the hearing panel's decision to find the parole candidate unsuitable for parole. Whether you believe that being high was the reason "WHY" you committed the life crime, another approach would be to look to the underlying defects of character that might be characterized by being insecure, angry, or having trouble with dealing with problems in your life. Overall, it was the lack of insight that motivated you into your escape in getting high that led to your poor decision-making behavior. Maybe you felt the need to self-medicate to deal with the individual stressors of your life? Whatever your reason, make sure you are able to identify the specific problems and course of action you followed when high. Telling the truth is always the best course to follow. You cannot blame the crime on substance abuse, but *you can use this insight* and expand your explanations to the hearing panel as to how you applied your acknowledgment of your failings.

Your epiphany or sudden awareness of why you reacted in a certain way, shows the hearing panel you recognize you did wrong, stopped, and considered what you did, and came to the conclusion you made a bad decision. After your life crime, did you turn yourself in? This is always a good sign you realize you made a poor choice – not a mistake. The reason why you can't say you made a "mistake," is because when we make mistakes we do so *without* conscious thought. In contrast, when committing a crime we know is wrong, we act with a *conscious* thought. So be careful when exercising distinctions in your answers. Did you confess to the police without delay? This shows immediate remorse, and that you had an overwhelming sense of grief and regret for your actions. These actions, even when you plead guilty to a rules violation, indicate you have remorse, or at least, some regret.

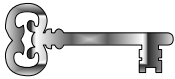
The hearing panel will also welcome hearing about how stress and/or substance abuse affected your work performance, judgment, social relations, hobbies, time with your children and other personal pursuits. It is a good strategy to discuss these sincere observations with your attorney, to let him/her know of your experiences and how you recognize the need for showing remorse; especially with your State-appointed attorney, whom you want to win over to your side in your early short-term relationship. The lawyer you retained probably loves you already. Generally, the most effective way to answer the hearing panel's questions about the crime, prior history, or gang involvement, is to answer directly, volunteering only relevant information. If you were a noted gang member or an associate (whether validated or not), then you must accept this informational if this is stated in your C-File. It is difficult to justify a reason to be come involved in a gang style mentality; but, if this applies to the specific parole candidate then he/or she needs to own up to their reasons for the participation in this type of behavior. You cannot blame the affiliation, or that the gang "led you into a life of crime." Speaking from my own past experiences, the only honest reason for being involved in gang style behavior is to gain favor by causing others to experience fear. The hearing panels are trained to ask questions that let the parole candidate hang themselves when discussing his/her involvement in gangs. When answering such questions, simply tell the truth. The truth, no matter how painful or ridiculous, is the only response to provide.



Note: Another point to keep in mind is that the hearing panel will have records/files/documents/e-files (computer access), related to you and your criminal past in front of them, and draw their questions from these materials. Indeed, they have already carefully read these accounts and have prepared land-mine questions for you to step on. Whatever you do, when responding to questions always maintain a positive demeanor. Do not feel rushed to respond too quickly. Take a moment to really listen to each question and analyze your response, but do not take so much time the panel gets the impression you are creatively formulating a safer answer. When you are ready to respond, do so in a non-aggressive manner and always frame your responses in a passive voice – unless you are feeling particularly emotional about one of your answers.

Emotion might even bring about tears – this is not a bad thing, but do not ever give the impression you are forcing yourself to cry. There is nothing worse than wiping the tears away from your eyes and the hearing panel sees only a parole candidate's dry eyes. Showing emotion or passion must be genuine. At all cost, try to avoid one word answers such as "Yes" or "No." While this may seem appropriate, answering questions in the singular context limits the hearing panel's opportunity to consider the compassion you might exhibit when responding with a more passive response: "Yes, and that's when I know I should have stopped. I did not do that then, but I have the control to do that now." The parole candidate should view every question as an opportunity to make an expanded point – but make the point relevant. A practice/mock suitability hearing that provides hearing questioning exercises will help greatly; if possible, find a few friends, talk with your loved ones, or discuss potential questions with mentors or spiritual advisors, etc., by putting yourself in the shoes of the commissioner(s), ADA, and VNOK. You may be surprised at how much you may learn simply from listening to the critique of others. Using your own life crime documents can provide you with potential questions the hearing panel may draw their questions from. Always anticipate that the hearing panel will pick out situations unrelated to your life crime (like uncharged acts evidence – cases/situations where you were not arrested/charged, but still named as a suspect). Additionally, review all

your documents that asked you questions when you first entered prison. You can expect that the hearing panel may ask questions related to the biographical data you provided at your initial intake into the CDCR. Be careful of ambush questions – these are the potential questions that might be asked by a hearing panel knowing that any response you provide – should reflect a sense of shame, guilt, humility, remorse, etc. Such questions might be pulled from the same information you try to avoid and leaves you flinching to the core of your being merely reading the information recorded about you and/or the life crime.



Key Point to Consider: *When asked a question by anyone present during the suitability hearing, answering with “I don’t know why...” or “I can’t answer that...” demonstrates a lack of insight. For all intent purposes a lack of insight = a finding of unsuitability for parole. Practice your oral responses. Whether you stand up, look in the wall mirror or sit down and look in a pocket mirror, a good strategy is to find a comfort level and practice talking to yourself and respond to questions you may encounter before the hearing panel. More important, if you find yourself in a situation that has left you in a position to clean-up any past credibility issues, use this practice time wisely to search within yourself the best course of action to take in response to answering questions related to your past credibility.*

Painting the Picture

Writing your PRO-Plan résumé and your statement of remorse, category-by-category, will be difficult for most of us; the effort like writing a book report or fictional story assignment in middle school. This is actually your autobiography and you want to make the story descriptive – you want those in attendance at the suitability hearing to live your life when you describe it. The résumé is provided in writing, of course, but the closing is done orally, again, like the dreaded book report presentation in school. Of course, most of us never actually read the book, other than skimming the first few and last pages of each chapter. No wonder standing in front of the class made us so apprehensive. However, telling the account of your life should come easily since you are familiar with the tale and you actually lived it – the good and bad. Just tell the story. How do you do that?

1. Take the following description, taken from actual suitability hearing parole plan:
“My childhood was bad. So were my years as a teenager...”

The above statement TELLS the commissioners something, but does not SHOW anything. Can you picture how a childhood was “bad?” You stop and can only imagine what was “bad.” Instead, PAINT the story, as in the sample below:

“...When I was alone, I cried, but told no one for fear I would be removed once again from a family. The death of my brother hit me hard, and confirmed I was being punished for living – when I should have died at birth. I accepted that my existence was nothing more than a shallow portrait of living a life for the pleasure of others. I neither loved nor felt love for anyone, accept my brother. And even then, I was mad at my brother, because I was powerless to keep him from being taken from me. I no longer tried to be good. At my brother’s funeral, I was unable to form any tears. My Smith family father told me “it made me weak if I cried;” so, I did not cry. But, not because I thought it would make me weak, I couldn’t cry because I was already immune to loss and pain...”

This tale makes an impact on the readers of your PRO-Plan résumé or listeners of your statement of remorse or closing impact statement (commissioners, ADA representative, VNOK, your own

attorney). You have PAINTED the picture by SHOWING the audience; you did not simply tell them that “I had a bad childhood...” Use this technique when you describe your influences of childhood, summary of life crime, childhood development, and all other categories in your PRO-Plan résumé. SHOW the details by explaining the bad influences. You are not blaming your ultimate life crime on these early childhood experiences, you are simply presenting facts probably already documented in your juvenile criminal record, adoption records (if available), and all subsequent POR’S. It may be helpful to obtain such reports to help you write your PRO-Plan.

2. Do not forget to add the positive incidents that SHOW you also had normal, positive reinforcing aspects to your childhood. See the below suggestion:

“Even when mom had alcohol on her breath, I do not recall many times when she was actually drunk. She always seemed capable of taking care of us and genuinely loved us, hugging us all the time. This probably happened because she felt guilty; I later realized I did the same thing after I hit my girlfriends. I did feel badly, like my mom did, and wanted to make them feel better and I did the same thing my mother did. I also later realized these were the best times of my childhood, when close to Mom, and after I apologized to my girlfriends – everybody felt well again. It just took getting into a 12-Step program to comprehend that alcoholism is not “normal,” nor were my mom’s actions of leaving me alone...”



Note: *These examples are not to be copied and used as your own. It is important to tell your OWN story and paint the picture of your life as you know it. Using the accounts of someone else’s life story may come across to the hearing panel as being phony. Remember, the hearing panel will be looking for any expressions of deception on your part. The story you paint for the hearing panel needs to be your own – would you want to be denied suitability for parole because the story you paint is not your own and does not appear to be genuine? Best advice: Be smart.*

3. Read your POR’S (even old newspaper clippings printed after your arrest will carry biographical accounts of your childhood, extracted from former neighbors, and even family members) and dig out what has already been presented, and add your memories – GOOD and BAD, to create a résumé that shows authenticity. Include your insights, as demonstrated above when the candidate relates he did not recognize that his mom’s and his own actions were not “normal,” realizing this only after participating in a self-help program. This statement is big plus for you. Remember, TELL doesn’t SHOW: Every time you use the TELLING words of “was,” (*My childhood was bad...*) or “were” (*My teenaged years were the worst part of my life...*), you need to elaborate on your descriptions to SHOW your readers/listeners.
4. CHARACTER DEVELOPMENT: Character development is the act/actions of a person that tends to SHOW what type of person he/she is. The old adage “*You can’t judge a book by its cover*” applies to many aspects of life; the proverb is true. For example: If you are heavily tattooed and walk into the hearing room, all those in attendance are already forming an opinion of you (development of character) simply by your appearance. This is a basic fact of life. The “average” citizen views body art as indicating insecure people who need to act out to feel better about the “self,” or to “belong” to a group with similar tastes. You cannot hide your tattoos from the victim’s family or the ADA, but you can lessen their impact because the hearing panel already have your well-prepared PRO-Plan. Further, the initial perception (opinion) of you by the others will also be converted if you have a good oral presentation. Countering the initial negative perceptions caused by tattoos is best done by hearing you speak well about the progress and what type of person you are now. Remember, when I suggested you offer an updated copy of something early in the hearing appearance? Maybe right at the moment you are introduced, you say, “...Commissioner, I have an updated document, may I provide copies to all of you now...” , and make eye contact with the panel and ADA. This gives you an opportunity to be heard, and also

enhances character development of you by showing your organization skills immediately, thus, starting to counter those "...judging the book by its cover..." perceptions. Good luck!



Note: REMINDER – When submitting updated documents, be mindful that the Board has set new conditions limiting the number of pages that can be submitted by the parole candidate ON THE DAY OF THE HEARING. So, if you have 20 pages (that’s 20 single sided or 10 double sided pages) of new items that you would like to offer to the hearing panel, you can submit them all. If you have 23 pages, bring them anyway, as the 20 page rule is discretionary, meaning the commissioners can accept more if they find good cause/reason to do so. (Source: Life Support Alliance)

Completing the Circle – The Support Letter

In preparing for the suitability hearing, one of the most important aspects to the parole candidate is being able to demonstrate that he/she has support once paroled. This requires the parole candidate to present valid written letters from others for the purpose of establishing proof that a viable link to the community is a reality. Each letter from a supporter is a record that shows the hearing panel that there are people willing to support the parole candidate and assist him/her on the outside, should he/she be found suitable for parole. The nature of the support letter takes on the role of providing the hearing panel with a descriptive picture into the window of the people who are reassuring the Board, that they are committed to helping the parole candidate make a smooth transition from prison life – to the community. This becomes very important, because the Board realizes that the transition from being in structured life environment for many years as a life prisoner, to then return to the community, is generally going to require a gradual rehabilitation integration to prevent a potential criminal or substance abuse relapse. To simplify, a letter of support emphasizes to a hearing panel, the parole candidate has changed his/her negative behaviors and will not be alone in his/her rehabilitation transition. There are basically two (2) types of support letters: *General* and *Rehabilitation*.

The General Support Letter

The general support letter is the basic letter identifying the parole candidate’s character, his/her attitude during the period of incarceration and if knowledgeable, how the parole candidate has used his/her time productively and/or taken advantage of all the available opportunities made available to the parole candidate while incarcerated (i.e., college, self-help, job skill training, etc.). The general support letter may be written on the parole candidate’s behalf by custody or non-custody staff, personal friends of the parole candidate who are situated in his/her prison environment, and/or who have direct interaction either physically or through correspondence. A more detailed list of general supporters might include:

- Custody/non-custody staff (i.e., teachers, instructors, health professionals, administrators)
- Friends in prison (men/women who have participated in self-help programs. Church, work, etc.)
- Volunteer self-help sponsors (any inside the prison volunteer)
- Outside community self-help sponsor (any person who comes into the prison to volunteer)



Note: Using LetterQuick.com is another source to have support letters submitted to the Lifer Desk and C-File.

Rehabilitation Support Letter

The rehabilitation support letter is the community support letter that identifies an open support network of people available upon being released back into society. Some of the areas that a rehabilitation support letter might cover involve the following, but is not limited to:

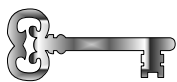
- Emotional/spiritual growth
- Subsistence/personal care services
- Medical/dental
- Substance abuse treatment
- Emergency shelter
- Transitional housing
- Behavioral health therapy (Anger, stress, post-trauma)
- Family stability
- Marital/relationship/stability
- Financial/credit debt/restitution
- Child support
- Job/career training (marketable skills)
- Substance abuse treatment
- Disability services
- Social adjustment/relapse prevention
- Etc.

The rehabilitation support letter is written by anyone in the outside community who has offered the parole candidate support/assistance in the above areas once released from prison. This style of letter can come from:

- Family, friends, clergy, NA/AA or any 12-Steps sponsor, medical professionals, clinical social workers, community volunteers, community outreach services, State/federal aid programs, etc.

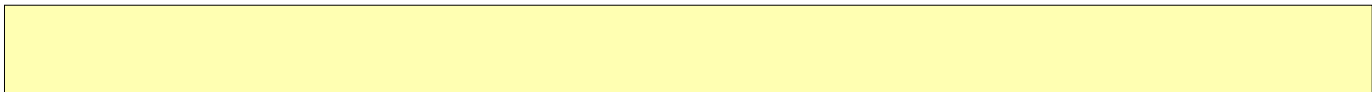
The nature of the rehabilitation support letter can further cover topics that might include but not limited to:

- Parole candidate's reputation in the community
- Good character
- Spiritual involvement/development
- Plans for relapse prevention
- A recognition in personal achievements/goals
- Living a drug/alcohol free lifestyle
- Community involvement
- Etc.



Key Thought to Consider: *When the parole candidate enlists the help of others to write either a general or rehabilitation support letter, it is necessary to inform the writer that the parole hearing panel is not interested in the personal views of the writer's expressed opinions on the criminal justice system or the manner that they believe one has been treated unjustly. The writer must understand it is not helpful, and may hurt the parole candidate when the writer injects comments relating to the evidence of the case, political climate of the BPH, Governor and/or concerns relating to the victim.*

The below outline provides a standard outline for persons writing support letters on behalf of the parole candidate preparing for the suitability hearing:



- Support Letter Formula -

➡ Address letter to:
Board of Parole Hearings Commissioner
C/o Case Records Technician
Lifer Desk
[Place address of prison here]
[Place City/Zip code here]

➡ [Place the senders address here]

➡ Date: [Place date here]

➡ **RE: The Parole Hearing of / Petition to Advance Hearing Date: [Place Name of Prisoner/CDCR #]**
➡ {Place date of Parole Suitability Hearing here}

Dear Commissioner:

➡ **PARAGRAPH 1:** This is an introductory letter explaining who you are and your reason for writing. You may be a spouse, friend, neighbor, past friend, spiritual leader, etc.

➡ **PARAGRAPH 2:** This is a longer paragraph and you should outline your contacts, relationship, and history with, frequency contacts, ability to observe person, duration of acquaintance. It is also a good idea to include that your support will not include the use of intoxicants or substance abuse use.

➡ **PARAGRAPH 3:** State your understanding that your support includes the knowledge of the parole candidate's life crime conviction and that he/she was convicted and found guilty of a specific offense(s).

➡ **PARAGRAPH 4:** Provide your opinion, predicated on facts, as to the parole candidate's character for whatever virtues are applicable, i.e. trustworthiness, honesty, intelligence, family or job orientation. Include your personal opinion of character and knowledge if possible, of his/her reputation fro that character trait in the community.

➡ **PARAGRAPH 5:** State your knowledge of his/her present behavior during incarceration (if known). Also state if applicable, your knowledge of registration requirements of the parole candidate upon his/her release.

➡ **PARAGRAPH 6:** State your recommendation for the parole candidate's consideration for parole. Examples of this might be based on, but not limited to:

- Reputation in the community;
- A productive life prior to prison. Contributions to the Community, and if he/she is given the chance, the ability to be empathetic in service;
- His/her attitude during the period of incarceration and use of time productively (knowledge of how the parole candidate has taken advantage of all the available opportunities made available to the parole candidate while incarcerated [e.g., college, self-help, etc.] ;
- His/her attitude during the period of incarceration and use of time [maybe towards other people in times of adversity and difficult adjustment periods] and
- A recognition in his/her self-development, goals, plans for relapse prevention, i.e., NA/AA support and living a drug/alcohol free environment.

➡ **CONCLUSION:** Thank you for your consideration.

➡ **SIGNATURE:** [Place your *Signature* here]
➡ [Place Sender's contact information here]

Recognizing Barriers to Behavioral Change Exercise

1. What do I already know and appreciate about myself and behaviors?
2. What do I think I still have to learn about myself and behaviors?
3. What are some of the changes you plan to make about yourself and your behaviors?
4. How do you plan to make these changes?
5. What do I need (or need to do) to make these changes?
6. How will you know when you have successfully made these changes?

Bridges to Freedom Inc. in collaboration with the Fair Chance Project is a prison and community based partnership whose mission is to provide every potential life term parole candidate with the opportunity to learn life skills that will teach men and women to regain freedom from restraint. The focus of this vision is expressed in four important ways:

Believing change is possible by accepting that growth
can be achieved beyond negative influences of the past.

Unmasking unresolved questions to the life crime behavior, and developing insight into understanding the key background factors leading up to the crime(s) that ultimately occurred.

Self-portrait examination, introspection and reflection, confronting the images of past through an exploration into the insight of actions.

Changing the negative outlook of life by experiencing the rewards of putting remorse into action.

We look forward to your inquiries and opportunity to hear feedback from you. Please contact us at one of the following numbers:

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