

PHASE ONE: 2 RELATIONSHIPS – TEAMWORK – DIPLOMACY

Week 1 AGENDA

- A. INTRODUCTIONS
- B. EXERCISE 1 – DIPLOMACY & TACT
- C. Prop 261 Brief Overview
- D. EXERCISE 2 - TBW #1

I. What is Youth Offender Parole?

Youth Offender Parole creates a special parole process for people who were age 25 or younger (up to the 26th birthday) at the time of their crimes, and sentenced to life sentences or long determinate sentences.

If you were 25 or younger at the time of your crime, you should have a “Youth Offender Parole Hearing”. The purpose of the Youth Offender Parole Hearing is to decide if you are suitable for parole and to “provide for a *meaningful* opportunity to obtain release.” PC 3051(a)(1) & (e). This means the law gives you a real chance of getting out of prison on parole. Many people will also get an earlier chance to earn parole and get out of prison.

II. WHO is eligible for a Youth Offender Parole Hearing?

If you can check each of these boxes as true for you, you are eligible. PC 3051(h)

- I was under 26 (meaning, age 25 or younger) at the time my crime occurred.
 - It doesn't matter when you were arrested, convicted, or came to prison.
 - What matters is whether you were under 26, when the crime happened.
 - You must have been UNDER the age of 26 – if you were 26 when the crime occurred, you are not eligible.
- I do NOT have an LWOP (life without parole) sentence for a crime committed when I was age 18 or older. (PC 190.5).
 - ➤ If you had LWOP, but were resentenced under another law, you are eligible.
 - ➤ If you were under age 18 (meaning, age 17 or younger) at the time of the crime and got LWOP, you are eligible for a youth offender parole hearing during your 25th year

of incarceration.

- I do NOT have a “One Strike” life sentence for certain sex offenses (PC 667.61).
 - I do NOT have a “second-strike” sentence or a “third-strike” sentence based on a prior serious or violent felony. (PC 667(b-i) or 1170.12).
 - You are disqualified ONLY IF you were specifically sentenced under PC 667 (b-i) or PC 1170.12.
- If you have prior felonies that were eligible for strikes, but you were not sentenced under 667(b-i) or 1170.12, you are still eligible.

- ➤ If you had a sentence under PC 667 (b-i) or PC 1170.12, but then you were resentenced to something different, you are eligible.
- ➤ You should talk to an attorney if you are disqualified for this reason.
- AFTER I turned 26, I did NOT commit a crime for which I was convicted for which I got a life sentence (“L”).
- *A 115 or other CDCR write-up is not a conviction. You are disqualified for this reason only if you went to court and were convicted and sentenced to a life sentence.*
- AFTER I turned 26, I did NOT commit a crime for which I was convicted that has "malice aforethought" as a necessary element. This includes, but is not limited to, the following crimes:
 - • Murder in the first degree or second degree (PC 187)
 - • Attempted murder (PC 664/187), conspiracy to commit murder (PC 182/187), solicitation to commit murder (PC 653f(b))
 - • Assault with a deadly weapon or assault that is likely to produce great bodily injury committed while you are serving a life sentence (PC 4500)
- *A 115 or other CDCR write-up is not a conviction. You are disqualified for this reason only if you went to court and were convicted for one of these crimes.*

IMPORTANT:

that disqualifies you, the Youth Offender Parole law will not change the date of your parole hearing. PC 3051(h). However, when you do have a parole hearing, the Board should give “great weight” to your youthfulness at the time of the crime. PC 4801. You should talk to your attorney about this before your hearing.

Human Rights Watch / ecalvin@hrw.org / *Human Rights Watch cannot provide legal advice, representation, or referral. Oct. 2017/V.9 For information about your situation, please consult an attorney who knows your case. Page 7*

If you were age 25 or younger at the time of the crime, but have a sentence or new crime

III. How will a YOPH be different from a regular parole hearing?

The Commissioners of the Board of Parole Hearings (Board) must now consider qualified youth offenders differently from someone who was 26 or older at the time of the crime. The fact that you were young at the time of the crime should count as one reason in favor of granting you parole. While you still have to work hard to show that you would not pose a danger to the community if released, the YOPH process should increase your chance of being paroled. PC 3051(d).

On the one hand, many things about a YOPH are the same as a regular parole hearing. For example, you will still have to be found suitable for parole in order to be released, and the suitability and unsuitability factors remain the same. You will have the right to an attorney and all other rights you would have at a regular parole hearing.

But, YOPHs should also be very different because the Board must give “great weight” to:

- The fact that youth are less responsible than adults for their actions (*the “diminished culpability” of youth*);
- The hallmark features of youth (*For example, that youth are, as compared to adults, not as good at understanding the risks and consequences of their actions; resisting impulses and peer pressure; or less in control of their life circumstances, etc.*); and
- Any subsequent growth and increased maturity of the prisoner. PC 4801(c).

IV. When am I eligible for parole”?

If you are eligible for Youth Offender Parole, your controlling offense determines when your YPED is. It is the longest single term. It is the sentence for a single count or enhancement for which you received the longest term of imprisonment. PC 3051(a)(2)(B). Think about your sentence and the different terms that make up the whole sentence. For example, if you have a 30-to-life sentence, it is really several terms that add up to 30-to-life. It could be two 15-to-life sentences, or five years with a 25-to-life enhancement, or some other combination.

- • *Example: Luis has 25-to-life. He has a 15-to-life sentence and a 10 year determinate sentence. The 15-to-life is the controlling offense because it is the longest of his sentences.*
- • *Example: James has 40-to-life. He has a 15-to-life sentence plus a 25-to-life gun enhancement. His controlling offense is the 25-to-life enhancement because it is the longest of his sentences or enhancements.*
- • *Example: Barbara has 27-to-life. She has a 7-to-life sentence, plus a 10-year sentence, plus another 10-year sentence. The 7-to-life sentence is the controlling offense because it is the longest of her sentences. (A life sentence is always considered longer than a non-life sentence.)*

