



POPULATION CAP STRUGGLE CHESS MOVES CONTINUE

It may take a Russian chess master to figure out the convoluted moves and game plans of the players in the continuing struggle between Gov. Jerry Brown and 3 federal court judges who have repeatedly demanded the governor comply with their order to reduce the prison population to 137% of design capacity. The latest temporary suspense in any real action was brought about by the Governor's filing of an appeal to U.S. Supreme Court Justice Anthony Kennedy once again asking the high court to prevent the 3 federal judges from requiring the state to take more action to comply with the population cap order.

Hopefully everyone in a California prison or involved in prison advocacy knows the background of this saga, so we won't repeat the whole process here. To do so would swell our small newsletter to the proportions of War and Peace. Suffice to say, the 3 judges have commanded the state to begin steps to reach the numbers cap, the state has appealed to the Supreme Court for relief from the demand and both sides, and their supporters, have now filed briefs with the court hoping to persuade the justices to see it their way. A decision on this aspect of the fight is expected in August.

As part of their last order the 3 judge panel required the state to submit a progress report every 2 weeks, detailing what actions are being taken in regard to various elements of a population reduction plan, how far along those plans are and how the results are going. The latest of these reports, submitted July 18, 2013, reveals the state could be said to be working on several aspects of the plan, albeit without any enthusiasm and the report itself continues to whine about the difficulty and time required to implement various components and continues to maintain the efforts either won't work or will be risky to public safety.

Of most interest to lifers are those parts of the plan that deal with 'elderly' and medical parole and the so-called "Low Risk List" of inmates who could be released with near immediacy without risk to public safety. Let us say here again, **THERE IS NO INDICATION THAT ANY LIFER WILL BE INCLUDED ON THE LOW RISK LIST.**

The state reported to the judges the Low Risk List “is taking shape but is not yet complete. Defendants’ best estimate is that the system [the list] will be finalized in approximately 30 days.” This statement was followed by a lengthy rehash of why the list is a bad idea and the assertion that the state cannot find enough inmates eligible for inclusion on the Low Risk List to be practicable.

Regarding ‘elder’ parole, the state reports it is currently “working to identify potentially eligible candidates for elderly parole. Defendants submitted draft legislative language to the Legislature that would establish a parole process for low risk elderly inmates. Defendants continue to work with the Board of Parole Hearings to develop a process for implementing this measure. CDCR’s Division of Internal Oversight and Research is currently working to identify, screen, and evaluate inmates who would be eligible. Inmates who are 60 years old or older have served 25 years in custody, and who are not serving a condemned sentence or term of life without the possibility of parole are preliminarily eligible.

“To the extent this population of elderly inmates overlaps with inmates being considered for medical parole, Defendants are developing a process to address such overlap. Further, the Board is exploring how it will conduct comprehensive risk assessments for these individuals as part of the elderly parole suitability review, consisting of an in-person interview between the inmate and a psychologist.”

Regarding medical parole, “Defendants have worked with the Receiver to obtain a preliminary list of potentially eligible candidates for medical parole under the expanded criteria. Defendants continue to work with the Receiver’s Office and the Board of Parole Hearings (the Board) to develop a schedule and process for implementing this measure for eligible inmates. To that end, on July 12, 2013, Defendants met with the Receiver and the Board to discuss criteria for prioritizing eligible candidates on the list [for medical parole], establishing processes and timelines for the Receiver’s Office to submit medical packets, and discuss how to manage post release issues, such as placement and transportation for paroled inmates.”

The report to the judges also noted the first prisoners were received at CDCR’s new medical facility in Stockton on July 22, the expansion of fire camp capacity had been completed, contracts for out-of-state beds have been extended for 3 years to allow the state more time to hold inmates out of state and the administration is continuing to seek ability and contracts to house state inmates in local and county facilities. The state also said it was still “assessing” the court’s direction to apply increased good time credits retroactively and has begun “identifying and addressing technical considerations for the implementation of credits program.”

The next move appears to be up to US Justice Kennedy, who, because he oversees emergency appeals from the West Coast, received the state’s request for a stay. Kennedy could act on his own or refer the matter to the full court.

PLEASE REMEMBER—

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LSA MEETS WITH SEC. OF CDCR; DR. JEFFREY BEARD

As reported briefly in the last month's Lifer-Line, Sen. Darrell Steinberg (D-Sacramento) 'suggested' to incoming CDCR Secretary Dr. Jeffrey Beard, during Beard's confirmation hearing last month, that the Secretary should meet with Life Support Alliance (LSA). Shortly before being confirmed to his position by the entire Senate (see elsewhere for details) Dr. Beard did so, sitting down with LSA Director Vanessa Nelson-Sloane and Co-Director Gail Brown for over an hour.

At the confirmation hearing LSA opposed Dr. Beard, based on his unavailability to stakeholders and failure to provide a clear plan for CDCR. Following our conversation we would still oppose his confirmation, but now with more specific concerns.

While we had many questions about his intended policies here in California, most especially those affecting lifers, Dr. Beard, while unfailingly polite and courteous, appears to be focused on two very narrow issues, the outcome of the population cap battle with the federal judges and his own project, interdiction of contraband coming into the prisons. Attended by two aides Beard spoke very briefly to each issue we presented, offering little insight into his plans for CDCR's operations and certainly nothing new or innovative.

He showed little interest in the details of prison life/rehabilitation/reform in California. Specific issues, from programming for lifers, to increased visiting days, to the hunger strike, elicited only short and general responses. On several topics the Secretary said he could make no comment as he was unfamiliar with the specifics of the issue, on some he espoused the usual response and on yet other issues he was flatly wrong in his stated facts.

On programs for long-term and lifers, referenced by Beard at his hearing, he could not give specifics as the plan was underway when he got here and is about to go out for bid. Beard hopes to provide more access for long-term prisoners, but evidenced little awareness of the need of lifers to participate in these programs early in their term to prepare for the parole board. LSA, however, is working on eliciting details of those plans and programs and influencing accessibility.

Beard maintained he would rather not continue the use of out-of-state beds but will do so to meet the federally ordered population cap. He also indicated there is an employee paid by CDCR at each out of state prison who is supposed to be monitoring what goes on and said he was aware of no problems. He did agree there should be a contact at CDCR for the families of out of state prisoners—perhaps one of the ombudsman. This is an issue we will be vigorously following up on.

The only real spark of interest shown by Beard was on the issue of contraband in prisons, clearly his pet project. Beard is seeking to establish how big the inside drug use is through random blind testing and then the establishment of new programs. On interdiction, he wants 'passive' drug dogs and machines similar to those in use at airports to detect drugs. If such resources are forthcoming Beard said they will be used on all persons who enter prisons, custodial and free staff, vendors, contractors and visitors, but no time frame was offered. Beard indicated negotiating this new policy with CCPOA would not be a problem; this is perhaps emblematic of his superficial understanding of CCPOA politics in California prisons.

Our take-away from our meeting with the new Secretary was this: Secretary Beard's interests in the California prison system appear to be limited and we should expect no sweeping or substantive changes during his time here, however long or short that may be. And that length of time may be closely tied to the resolution of the population cap battle. Reminds me of the Gray Davis era.

BEARD CONFIRMED

Following his endorsement by the Senate Rules Committee, on a strictly partisan vote (3 Democrats in favor, one Republican against, one Republican decline to vote) the entire Senate confirmed Jeffrey Beard as Secretary of Corrections in mid-July, again, on a largely partisan basis. The official vote, 23 in favor, 6 opposed and 9 Senators not voting, followed a debate on the Senate floor.

Democrats touted Beard's commitment to "enlightened reform," according to Sen. Loni Hancock (D-Berkeley), while Sen. Jim Nielsen (R-Gerber) maintained the new Secretary, who testified against the state in the prisoners' health care lawsuit, "has a credibility and conflict problem." Of course, Nielsen couldn't stop there, pushing his remarks into the fear-mongering area, maintaining Beard's commitment to continuing realignment "continues the darkness of risk to our families."

The breakdown of the actual vote was also interesting. Voting against the confirmation were Republican Senators Anderson, Gaines, Knight, Nielsen, Walters and Wyland. Not casting votes, whether from being absent or simply declining to vote was an interesting mix of both parties, including at least four of five Senators on the Rules Committee. No votes were recorded for Senators Berryhill (R), Cannella (R), Emerson (R), (who abstained from voting in Rules committee), Fuller (R, who voted against Beard in Rules), Huff (R), Jackson (D), (who voted in Beard's favor in Rules), Lara (D), (also voting for Beard in Rules), Liu (D) and Roth (D).

For Beard's part the Secretary released a statement saying, "I am honored to be working for the people of California and the Brown Administration. I am committed to ensuring California's prison system holds offenders accountable, provides safe and secure facilities for staff as well as inmates, and expands innovative rehabilitative programs. I will continue to work with local law enforcement to make California's Public Safety Realignment Law a success and look forward to California getting out from under costly federal court oversight and regaining full control of its prison system."

BPH COMMISSIONERS REAPPOINTED, OTHERS RESIGN

A handful of Board of Parole Hearings commissioners have been reappointed by Governor Brown.

Arthur Anderson Jr., 65, of Roseville, a former member of the CHP and parole commissioner since 2008; **Cynthia Fritz**, 41, of San Ramon, a board member since 2011 and formerly with the Attorney General's office; **Peter Labahn**, 57, of Laguna Beach, past member of the Riverside County Sheriff's Department and a commissioner since 2011 (and a term from 2009-2010) and **Ali Zarrinnam**, 38, of Encino, who was a Deputy Commissioner prior to becoming a commissioner in 2012 were all reappointed by Brown. All must be approved by the Senate Rules Committee and the full Senate within the next year.

Anderson and Fritz are Republicans, LaBahn and Zarrinnam, Democrats. The salary for parole commissioners is \$111,845 annually.

The reappointment of these four commissioners will leave the board two short as of the end of August, when the resignation of Commissioner Jeffrey Ferguson will be effective. Commissioner Dan Figueroa resigned in June.



IF YOU HAVE AN OUTSIDE CONTACT....

For those of our readers who are receiving **Lifer-Line** via our mail tree volunteers and who may have a friend or family member on the outside who can provide this service to you, please ask them to do so. We currently mail Lifer-Line to nearly 500 indigent inmates throughout the system, all accomplished with the help of our volunteer mail tree. Without these concerned and dedicated supporters we could not continue to reach the number of lifers we do.

However, each month brings new requests to be added to our mailing list, and while we are happy to provide as much information to as many prisoners as possible, we currently have a waiting list to be added to our recipients. If you have a friend or family member who can receive **Lifer-Line** via email to send to you, please have them contact us. We will be happy to send the monthly newsletter to them—and remember, it's free—and remove your name from one of our volunteers' lists, thus enabling us to add the name of a lifer with no such contacts on the outside.

Please help us continue to provide this free newsletter to as many lifers as we can reach. Our volunteers are a great bunch, but their resources are limited, as are ours. It isn't much to ask of friends or family, to once a month print and mail the newsletter to you. We try to keep the length short enough that a single stamp will cover postage.

Have them email us at: lifesupportalliance@gmail.com, and tell us who they will be sending the newsletter to. We will be happy to add their name and email contact to our monthly mailing blast, remove your name from one of our volunteers' list and replace it with a prisoner now waiting to get the latest information and news. Help us help you—all of you!

SB 260-POSSIBLE RELIEF FOR LIFERS SENTENCED AS JUVENILES

SB 260, introduced by Sen. Loni Hancock (D-Petaluma) is a companion piece to SB 9, Sen. Leland Yee's bill passed last year that offered relief to those sentenced to LWOP as juveniles. SB 260, not yet fully passed by the legislature or signed by Gov. Brown, is a bi-furcated bill, meaning it offers two levels of action. It addresses all those sentenced to life with the possibility of parole and who were under 18 years of age at the time of the crime, offering the chance to have their sentences reviewed for possible reduction from the life term.

Under current provisions SB 260 would require the Board of Parole Hearings (BPH) to hold a Youth Opportunity Review Hearing,

“to consider release [on parole] of offenders who committed specified crimes prior to being 18 years of age and who were sentenced to state prison and would require the board to give great weight to specified mitigating factors, including fundamental differences between juveniles and adults and a juvenile’s diminished culpability as compared to that of an adult. The bill would require that, in assessing growth and maturity, psychological evaluations and risk assessments instruments, if used by the board, be administrated by qualified professionals and provide reliable assessment of growth and maturity and would require that family members, school personnel, faith leaders, and representatives from community based programs with knowledge about the young person at the time of the crime or his or her growth and maturity in prison be permitted to attend and testify at the Youth Opportunity Review hearing.”

Those convicted of a non-homicide (attempted murder, conspiracy to commit murder or manslaughter) and sentenced to a determinate term of 40 years or less or an indeterminate term with a base term of 40 years or less could be offered the Youth Opportunity Review Hearing during the 15th year of incarceration. Those with the same category of offenses but sentenced to or with a base term of more than 40 years will be considered during the 20th year of imprisonment.

For those with a second degree homicide conviction, the hearings will be held during the 15th year inside and for those with a first degree murder conviction, in the 25th year of their prison term. The bill also provides for a review of circumstances 5 years prior to the window for the Youth Opportunity Hearing, similar to the documentation hearings, to provide information on parole hearings and suitability requirements. If the youth hearing does not result in a recommendation for parole the denial time will be limited to 3 years.

There are other factors included in the language of SB 260 relating to what factors shall be considered in the Youth Opportunity Review Hearing, including the exclusion of those convicted under 3 Strikes from consideration under the bill or those convicted for first degree murder with special circumstances.

Having already cleared the Senate and the Assembly Public Safety Committee SB 260 will be heard in Assembly Appropriations Committee the second or third week in August, when the legislature returns from recess. Conventional wisdom is that the bill will pass and be signed by Gov. Brown; but, it ain’t over till it’s over. Stay tuned.

PAROLE ISSUES THE NEXT CHALLENGE

With some 1,400+ ex-lifers now on parole status in California the conditions of parole and even discharge from parole supervision are the next areas of prisoner advocacy Life Support Alliance is delving into. As the Division of Adult Parole Operations undergoes massive change due to realignment the number of parole agents has decreased and many P.O.s find themselves with lifers on their caseloads for the first time.

All of this is a strange new world for both agents and newly-paroled lifers, with resultant conditions, expectations and information all over the board, from the sublime to the ridiculous. LSA is meeting with DAPO personnel and the BPH to get accurate, timely information on parole issues for lifers and will begin presenting this information, so that as lifers are granted dates they will have a better idea of what awaits them. Watch coming issues for information on re-entry facilities, conditions of parole and the appeal process. We continue to work for lifers, in every aspect of their return to society.



VALLEY FEVER MOVES ADD TO CONFUSION

CDCR officials are scrambling to comply with a recent court order directing them to relocate more than 3,000 at risk California prisoners from Avenal and Pleasant Valley State Prisons to facilities where the exposure to so-called Valley Fever will not pose an imminent risk to their health. Judge Thelton Henderson, siding with federal medical receiver J. Clark Kelso and Dr. John Galgiani, a professor of medicine at the University of Arizona, decided the incidence of the potentially fatal disease among African American, Filipino and Native American prisoners constituted a “public health emergency” and ordered the transfers.

Between 2006 and 2010 as many as three dozen inmates died as a result of Valley Fever, reportedly more than 80 percent of those African American. The Receiver’s Office estimates that African American prisoners in Avenal and Pleasant Valley State Prisons have a 90 percent risk of contracting valley fever and prisoners older than 55 have a 60 percent risk.

Although Judge Henderson did not direct CDCR to include prisoners over 50 years of age in the high risk group he indicated they might be added to that category at a later date. The department began issuing move orders shortly after receiving the ruling, notifying some institutions by phone to gather up a specified number of white inmates to move out to Avenal and PVSP and prepare to receive an equal number of minority inmates.

Such a move at a sweeping and accelerated pace is risky on several levels. Department spokesmen said such mass transfers could create a racial imbalance in prisons affected which might affect the security of the institutions. Additionally, the state is dealing with transfers of prisoners to out of state facilities in on-going efforts to meet the federally imposed population cap.

Still another concern is the possibility of another class action law suit by white prisoners, many of whom contend they are being placed in jeopardy to contract a known potentially fatal illness based on their race. Dr. Royce Johnson, a professor of medicine at UCLA and chief of infectious medicine at the Kern Medical Center in Bakersfield, and who has been treating valley fever for over 30 years, commented, "You cannot tell by looking at someone's skin color what their risk is."

In April the Receiver’s Public Health Unit reported the rate of Valley Fever infection at PVSP was 400 times higher than the rate for Kings County and Avenal State Prison’s infection rate that was nearly 10 times higher than the county’s rate. Kings County itself has the highest rate of Valley Fever infection in California. UCLA’s Dr. Johnson suggested the rate of Valley Fever infection at PVSP was so excessive the facility should be abandoned.

LSA'S LIFER FAMILY SEMINAR COMING TO BAY AREA IN OCTOBER

LSA is in the planning stages for our next lifer family seminar, this one in the Bay Area. Although the date is not yet completely confirmed the tentative dates are Sept. 28 or Oct. 5. "*Doing Life as a Family*" seminars are specially tailored to provide lifer families with information and tools to help their prisoners work toward parole suitability.

Although we understand holding the seminar on Saturday conflicts with a day of visiting, weekdays are not workable for most of those who want to attend, including the attorneys who want to come and discuss issues. And we think the information provided at the seminar is worth missing one day of visiting. The most important thing for most families is helping their prisoner come home and to do that they need information, sources and advice. All available at the seminar.

Some of the topics we'll cover are getting ready for parole, how to make a good impression on the commissioners (yes, it matters), what families can do to help, how the parole hearing process works, and once your prisoner gets a date, what then and what challenges will he/she face on parole, and what we're doing about it.

Those interested in attending can contact us by email at: lifesupportalliance@gmail.com or by telephone (916) 402-3750, or even by mail, P.O. Box 277, Rancho Cordova, CA. 95741. Let us know what weekend would be the best for you and any other questions you have.

We will have a good panel of presenters, including one of the leading lifer attorneys in the state and some paroled lifers to speak about how to get home and how to succeed. Cost for the full day seminar will be \$20. in advance or \$25. at the door, which includes lunch and a full packet of information to take with you.

EXECUTIONS LIKELY 'STAYED' FOR SEVERAL YEARS

A decision by the Brown administration to move the state's administration of death sentence protocol from a three drug mix to a single lethal injection will likely result in all executions being postponed for up to 3 years. California has not carried out an execution since 2006 and even once a new protocol is approved and in place, assuming that happens, at the rate of one execution a month it would take over 50 years to clear even the current 736 inmates, men and women, on the state's death row.

A new protocol will take at least a year to develop, then must be submitted to the Office of Administrative Law for review and public comment, a process that could delay the approval and use of the new protocol for yet another year. Litigation challenging any new procedure could further delay the process. Even the state's Chief Justice of the state supreme court feels it unlikely there will be executions in the next three years.

The prospect of several more years with no state-sponsored killings has caused an outcry among some prosecutors, who have suggested the gas chamber be reinstated. But there seems, as yet, to be no political will to take up that fight.