LIFE SUPPORT ALLIANCE
(916) 743-1654
(916) 402-3750

Public Safety and Fiscal Responsibility

APRIL 2012 *LIFER-LINE* VOL. 3 ISSUE 4

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2012

CDCR ANNOUCNES NEW 'MASTER PLAN' THROUGH 2017
'THE FUTURE OF CALIFORNIA CORRECTIONS'

CDCR Secretary Matthew Cate stands in a prison gym, recently emptied of 'ugly beds,' but as yet unused

At a recent Sacramento news conference CDCR Secretary Matt Cate released, amid modest fanfare, the new master plan the department proposes to move the prison system forward. "The Future of California Corrections" is a daunting 250 page tome, complete with tables, charts and a prison-by-prison breakdown of staffing and programming plans through 2017. "It's a massive change," said Cate.

Not light reading, the plan puts the best possible spin on the situation in which the department has found itself, touting recent positives and largely skimming over or tacitly excusing past problems, laying the blame for nearly everything on overcrowding. Of course, the fact that the department itself has for decades done nothing to deal with overcrowding problems was totally ignored.

While proclaiming progress in reducing overcrowding made via Gov. Brown's realignment plan that was put into action last year, the report admits that realignment alone will not bring California's prison population to the level required by the Supreme Court by the June, 2013 deadline. The court ruled the state could house no more than 137.5% of design capacity within the existing prisons; with no reduction activities other than realignment the department estimates they will miss that cap by about 3.5% or roughly 5-6,000 inmates

And of course, when CDCR can't manage to play by the rules—they change the rules. The master plan report suggests, and Cate agreed, that the state plans to request the court modify its order to allow CDCR to house up to 145% of prison design capacity by June, 2013. Since realignment began in October, 2011 the system has seen a reduction of about 22,000 inmates held in the state prison system.

In past years, at the height of the overcrowding mess, California had as many as 10,000 prisoners housed in out of state prisons; the newly announced master plan proposes to bring all out of state prisoners, presently estimated at about 9,500, back to in-state custody. The report also boasts, a bit prematurely, we think, that CDCR has finally eliminated all the non-traditional or 'ugly' beds that once clogged institution gymnasiums and day rooms. With realignment, so says the report, CDC "has been able to close all its nontraditional beds and once again begin using the previously occupied gymnasiums and dayrooms for their intended purposes." Well, not really. The beds have gone, but there have been few reports of gyms and dayrooms going back to the original usage; mostly they are not being used due to the ever-popular 'staffing shortages.'

In fact, under the new plan the department will see an additional cut in workforce of over 6,000 workers, both administrative and custodial through enactment of standardized staffing levels, which will provide a "new and uniform ratio" of staff in each prison, based on security level, physical plant configuration and mission. The staff reduction overall seems to be primarily in custody positions, with most institutions on track for increases in such non-custody positions as educational, vocational and plant operations. That's the plan, but as the old saying has it, the devil's in the details.

The six major points of "Future of Corrections in California" are:

- Improve inmate Classifications System, which will shift about 17,000 prisoners to lower custody levels, a process that will reportedly begin in about 6 months.
- Return out of state housed inmates to California, for an estimated savings of $318 million.
- Improve access to rehabilitation programs, including educational and vocational, in which the department hopes to enroll about 70% of their 'targeted population.' More on this later.
- Standardize staffing levels in each prison
- Comply with court health care standards, in part by opening a new health care facility in Stockton.
- Satisfy the court order to reduce overcrowding, if they can convince the court to up the cap from 137.5% to 145%.

Other highlights include plans to close the aging Norco facility and convert Valley State Prison for Women in Chowchilla to a Level II men's facility. The master plan acknowledges the percentage of inmates aged 55 and over is increasing, but makes no mention of the fact that this is most likely largely because as the number if state prisoners decreases, the percentage of long-serving, older lifers in the cohort increases.

Because realignment is moving many individuals who previously would have been housed in Level I and Level II prisons to county custody, coupled with the new classifications thresholds soon to be put into practice, the department expects that by 2017 it will need nearly 1,000 more Level III beds than are currently in use and over 600 more Level IV beds. The numbers of Level I inmates would decrease by about one half and Level II inmates by nearly one third by 2017. Overall CDC expects to house about 33,000 fewer inmates by June 2017 than were present in June, 2011 including a reduction of about 1,000 prisoners now housed in SHU facilities.

While some increases in programming, both vocational and educational, are referenced, and staffing increases in these areas are laid out, the most troubling aspect for those advocating for lifers is that lifers are not included in what the department calls its 'targeted population' for which they hope to achieve 70% enrollment. That targeted population is that cohort with 6 to 12 months left on their sentences, thus not lifers. What the report and the CDCR (again) ignores, is that lifers must have access to these education, vocational and self-help programs to be able to meet parole suitability standards. To put lifers last on waiting lists again is to sabotage their rehabilitation efforts from the start. This cannot and will not be left unchallenged.

The Board of Parole Hearings has not escaped unscathed from the projected cuts. According to the master plan the number of Deputy Commissioners will be cut by about 75%, along with reductions in nearly every other BPH division, as the BPH sees its role down-sized to dealing with only lifers and lifer parole, parole revocation hearings passing to the courts under realignment. When the realignment model is fully realized in July 2013, the BPH will continue to hold lifer suitability hearings, medical parole hearings, mentally disordered offender reviews and sexually violent predator screenings. Divisions of the BPH will also investigate possible pardons, commutations and similar matters, along with investigation of lifer parole plans.

In perhaps the most self-serving and self-righteous statement in recent memory the report also speculates the actions outlined will allow the department to end current class-action litigations in which it is embroiled, a goal the CDC wants to achieve because "[T]hese cases disrupt democratic principles by shifting control away from the state and to federal courts, makes managing prison affairs more difficult, and impose enormous fiscal costs." The state hopes to resolve all class action suits by showing it can maintain "legally acceptable conditions of confinement." All this sounds very high-minded and sanctimonious, but turns an intentionally blind eye to the reason the federal courts were compelled to intervene—the state could not maintain conditions of confinement, including basic medical care, that met legal standards. Whether or not the CDC can actually turn its massive floating trash heap around and reach, let alone maintain, constitutionally acceptable standards, remains to be seen.

LSA AND CLN JOIN FORCES

The last two issues of *Lifer-Line* have referenced coming changes to Life Support Alliance and our continuing mission to be a voice for lifers and their families. Now that most of these changes have been accomplished, we are happy to spell out the details of our new configuration.

Life Support Alliance (LSA), the non-profit organization created over two years ago will continue to be the partisan voice for lifers and families, lobbying for change in parole hearings, speaking out on the confirmation of parole commissioners, taking a stance on legislation affecting lifers and others in the California penal system and publishing a the free monthly newsletter, *Lifer-Line*. As announced last month we have added a sister agency, Life Support Alliance Education Fund (LSAEF), a non-profit tax exempt organization to educate legislators, the public and, most importantly, prisoners and their families, on the prison system changes, upcoming legislation and court decisions.

One of our most important tools in this effort is also our newest addition. As of the June 2012 issue, LSAEF will become the publisher of *California Lifer News (CLN)*, perhaps the best known, most respected and most important of prisoner oriented publications in California. CLN was founded over eight years ago by Donald "Doc" Miller, former lifer, now paralegal and fierce advocate for lifers and their battles to be found suitable against incredible and often unfair odds.

Like many long-serving lifers, Miller, a former physician, found himself in a labyrinth of stacked rules and regulations, suitability requirements changing with every panel and no real or available information on relevant court cases. But Don was able to persevere, educate himself in the law and succeed in fighting his way out through the courts. *California Lifer News* is the result of Don's legal prowess, insight and tireless dedication to lifers and their freedom.

And the situation lifers today find themselves in today is not less disadvantaged than when Don Miller was imprisoned. Access to the law library is often severely limited in many prisons, convoluted legal language in court decisions is difficult to decipher, and knowledge of when a useful case has been published is hard to come by. Don's dedication to helping solve those problems lead to his creation of CLN, the best tool lifers have in their fight to overturn unreasonable denials.

By publishing succinct legal analysis and relevant portions of court cases dealing with lifers and parole, Don created an invaluable legal resource for lifers working on their own cases or just trying to keep up with the changing tides in parole. Now, after eight years, Don has decided to concentrate on legal writing, paralegal work and other interests and had turned over the publication of CLN to Life Support Alliance Education Fund. He will continue to provide legal case analysis and comment for CLN, while LSAEA takes over editorial and other content.

Subscribers should notice little change in CLN. Publication will continue to be bi-monthly (unless an especially important case requires a special edition) and subscription rates, $25 per year for prisoners, will remain the same. And, with Don Miller behind the computer keyboard, the case selection and legal analysis will maintain the quality CLN readers have come to count on. Those with current subscriptions will continue to receive CLN for the duration of their subscription.

The second arm of our education efforts will be a series of seminars held throughout the state for the families of lifers and other prisoners, to help them find their way through the complexities of the CDCR, know how to protect their rights and those of their imprisoned loved ones and understand how they can help their prisoners endure prison time, maintain family unity and plan for parole and re-entry into society. As these seminars, right now being planned and finalized, are scheduled we will announce them in both *Lifer-Line* and CLN.

With our expanded mission and operations comes a new mailing address, for both LSA and CLN. All mail, surveys, questions, subscription requests for CLN and donations either to LSA or LSAEF can now be sent to LSA or CLN at PO Box 277, Rancho Cordova, and Ca. 95741. All contributions greatly appreciated, those made to LSAEF are tax deductible.

SB 542 UPDATE: IWF SAFE FROM FUNDING RAIDS

As reported in a previous *Lifer-Line* Sen. Curren Price (D-Los Angeles) recently introduced SB 542, legislation that would have made the state-administered Inmate Welfare Fund a source of funding for psychological services to inmates released from county custody. While Sen. Price's idea was well intentioned, it was perhaps less well-informed. Life Support Alliance was one of several stakeholder groups and individuals who expressed immediate concern and opposition to the concept.

Following an initial meeting with the Senator's staff, LSA was among a handful of groups who met with Sen. Price and staffers to discuss the concept, the reasons for opposition and the Inmate Welfare Fund in general. All agencies and organizations in attendance, from LSA, through county sheriff's groups to the CDCR itself, opposed the use of IWF funds for the purpose outlined in the bill. Following a second meeting with Sen. Price and staff the Senator came to the conclusion that, while the transitional mental health care services are vitally needed and presently underfunded, the IWF is not the appropriate source for that funding.

In addition to the good news of the Senator's impending amendments to SB 542 to remove IWF as a source of funds, the initial proposal and resulting discussions produced an another positive result. Sen. Price, now aware and informed of both the concept of the IWF and the recent use of those monies, has concluded that the IWF needs examination, oversight and input from interested parties, including prisoners, as to how the monies are used at each institution. To his credit, Sen. Price took his inquiry to the source, meeting at San Quentin and Folsom prisons not only with administration officials, but with prisoners, for their input and suggestions. And as Sen. Price noted, the inmates had substantial knowledge of how the IWF is supposed to work and the problems experienced at each prison, as well as several suggestions for both use of IWF funds and oversight methods.

The Senator honestly admitted that until the advent of SB 542 he was unaware of the IWF and any related problems. Now, however, the inconsistencies in use of these monies, the unacceptable laxness of CDCR oversight of monies derived from inmates and their families, and the ineffectiveness of a fund meant to benefit inmates, has caught his attention and he intends to offer a solution. More importantly, Sen. Price has made plain his intention to ask for input from those most affected by the IWF, inmates themselves.

If the Senator follows through on his intentions, this could be a win for all sides. Inmates may see actual benefits from expenditures of the IWF, families may see benefits to their prisoners from the monies they supply and the state may actually be able to wisely use funds. These are the potential positive results—they are by no means assured.
More to come on both Sen. Price's progress on an IWF bill and on the CDCR's stewardship of the existing fund in future *Lifer-Line* issues, as LSA will be part of these discussions with Sen. Price moving forward.

REMINDER

New mailing address for Life Support Alliance and California Lifer News: PO Box 277, Rancho Cordova, Ca. 95741. All mail, subscriptions and donations, questions, comments should be addressed here.

NEW CLASSIFICATION POINTS/LEVELS

Much has been made in the new CDCR master plan of the coming changes in inmate classification point system and the effect it will have on inmate housing and prison missions. Below is the proposed new schedule, with noted changes. Just how this new system will actually affect security levels and housing remains to be seen, but more information will be presented as it become available.

INSTITUTION LEVEL	**CURRENT**	**NEW**
I	0-18	NO CHANGE
II	19-27	19-35
III	28-51	36-51
IV	52+	60+
REASON FOR MANDATORY MINIMUM DESIGNATION	**CURRENT**	**NEW**
CONDEMNED	52	60
LWOP	52	36
LIFE SENTENCE MULTIPLE VICTIMS EXECUTION	28	*delete*
HISTORY OF ESCAPE	19	no change
HAS "R" SUFFIX	19	no change
VIOLENCE EXCLUSION	19	no change
PUBLIC INTEREST CASE	19	*delete*
OTHER LIFE SENTENCE	19	no change
*category to be eliminated		

Under these new guidelines categories and point designations for prisoner serving life sentences for crimes with multiple victims, or those killed ‘execution style’ as well as the separate category and point value for inmates involved in cases of high public interest or profile will be eliminated.

The change in point assignments for the crime or sentence, combined with changes in the threshold levels for assignment to various security level prisons can possibly lead to housing shifts for some inmates. Those serving an LWOP sentence and now restricted to Level IV will be eligible to be housed in Level III; some Level III inmates now in celled institutions could be transferred to Level II dorm facilities and some now in Level IV housing could be transferred to Level III.

As realignment progresses the department is scrambling to maintain appropriate housing situations for all inmates, both from security and cost standpoints. The new system offers potential benefit to some prisoners, burdens to others. Nothing new there.

A 'FLY-ON-THE-WALL' MOMENT

We can but report what we hear, our sources remain anonymous.

Having run through CDCR's master plan for "The Future of California Corrections," complete with staff reductions, inmate reclassification, prison closures and re-assignments and proposed increase in programming, all of which CDCR touts as the way forward and the best thing to hit corrections in California since the pension plan, here's the other side—what some line staff think of the plan, CDCR and the future. Most names have been redacted to protect the truly culpable.

Prior to announcing the master plan to the public, CDCR Secretary Matthew Cate gave members of CCOPA a sneak preview of many of the components. Much of what previewed was outlined in the released report, but the Secretary seemed to put a special spin on the components of the master plan in line with the interests of his audience.

Acknowledging that the department had "lost" 22,000 inmates out of the system since the inception of realignment in October of 2011, Cate told the union members the standardized staff ratios outlined in the master plan should bring thousands of jobs back, but the next few months were going to be tumultuous. He assured the audience that the safety of officers weighed heavily on his mind (odd, we've never heard the Secretary mention the safety of prisoners, their medical welfare or ability to access programming weighed on his mind) and his desire to partner with the CCPOA leadership, to do away with the division between management and line staff.

Cate also spoke to the department's desire to get the courts out of the state's business (population cap, Constitutional level of health, dental and mental care) and that California should be incarcerating its own citizens, hence the plan to return out of state inmates to California, with a 5 year target completion date for that effort. He urged union members to fight for realignment funds with the same fervor they would seek staffing funds. (Well, basically, they're the same thing.)

Also speaking at the meeting was Terri McDonald, Associate Director for Adult Institutions, who echoed her boss's comments on the importance of the master plan, including programming for inmates (thank you, Ms. McDonald). And while there will be layoffs beginning in October, McDonald held to the position that the standardized staffing ratio plan would, in the long run, be positive for CCPOA members.

CCPOA leader Mike Jimenez, stating the obvious, that things have changed, went on to announce that his membership had become used to what he termed chaos and overcrowding and had come to see those conditions as the "norm;" however, this would not be the "norm" anymore. (Here's a news flash Mr. Jimenez, most of us never thought massive overcrowding and the 'chaos,' often helped along by your membership, was or should ever be 'the norm.')

No surprise that many line staff had a different take on the plan, Cate's comments and realignment in general. Suffice to say, the vitriol and venom were about what we have come to expect, with most chiming in to complain about staff cuts, pension reduction, job cuts, pension issues, lack of trust in their union, job cuts, increase in inmate programming, staff reduction, job cuts, job cuts and job cuts. Do we see a pattern here? One noble CO even suggested if line staff were to be cut it should be mandatory that inmate programming be cut also. To which we can but ask, what inmate programming? Is there any left to cut? Where?

Perhaps CCPOA members should be reminded that the purpose of the prison system is not to provide jobs for them—we seem to recall a few sentences in California law about the corrections system being about public safety (at least in theory), correction and rehabilitation of 'offenders.' And perhaps we missed it in the language of the law, but there doesn't' seem to be any mention of guaranteed jobs. For anyone, not even CCPOA.

The underlying message to CCOPA members seemed to be—the gravy train has ground to a halt. But has it? We'll see.

REMINDER

New mailing address for Life Support Alliance and California Lifer News: PO Box 277, Rancho Cordova, Ca. 95741. All mail, subscriptions and donations, questions, comments should be addressed here.

PUTTING PSYCH EVALS ON RECORD

Although the changes to Title 15 to officially authorize and legalize the psychological evaluations of life term prisoners by the Board of Parole Hearing's Forensic Assessment Division (FAD) was approved late last year, the fight to overturn this bastardized practice and end the absurd and often abusive reports produced by FAD continues. Legal action is being explored, complaints against bungled evaluations and evaluators are being collected and filed and efforts to administratively and legislatively dissolve the FAD continue.

Until one or more of these avenues succeed, Life Support Alliance is spearheading an effort to, at a minimum, make the clinicians who ply this dubious trade more accountable and give prisoners subjected to the consequences of these misrepresentations some basis to fight the errors. We have requested the BPH consider recording the interview sessions between prisoners and FAD psychologists, sessions on which the formal evaluation is based, and transcribe the tapes. These transcripts, much like transcripts of the parole hearings, would then be made available to the prisoner and his/her attorney; these transcriptions would be in addition to, not in place of, the clinician's formal evaluation. And while transcripts of the interviews might not routinely become part of the official record, they would provide prisoners and attorneys a factual basis on which to challenge errors, misrepresentations and distortion of inmate statements often found in the official evaluation.

We anticipate the usual objections of cost and breach of confidentiality will be trotted out; however, these hurdles are easily overcome in the first case and are moot in the second. All prisons have recording equipment on site; there should be little issue in providing it for psych evals, which in some cases last less than 30 minutes. Although this practice will involve additional transcription costs, if, as proclaimed, the goal of the BPH and FAD is to provide accurate, ethical evaluations, this would be an insurance policy. And as for confidentiality, all inmates are told at the beginning of an FAD interview that the information and the evaluation are not confidential, thereby negating the patient/doctor confidentiality pact. There is support for our request from many inmate attorneys and from many inmates with whom we have had contact.

In support of this request we have brought to the attention of the BPH several instances of obvious and egregious factual errors in psych evaluations prepared by FAD psychologists, including the cases of no less than 6 prisoners in one prison, all of whose personal and historical information related in the evaluations was incorrect. Indeed, in four of those cases the men themselves discovered their personal information had simply been switched: the personal, familial and historical information for prisoner A had been submitted as that for prisoner B, while prisoner B's information was attributed to prisoner A.

These 'evaluations,' all done by the same FAD psychologist, were passed by the 'senior psychologists' of the FAD, whose job, at least in theory, is to review and sanction the work of the field clinicians (we hesitate to call them actual psychologists). So much for the vaulted review process. We have long wondered how 4 to 6 'senior psychologists' could adequately review the work of 35+/- field clinicians, work amounting to hundreds of psychological reports.

And we have questioned how clinicians themselves can produce adequate, reliable reports, given the case load of each clinician. The answer to that appears to be the interviewers simply cut and paste names and information into an evaluation template on their computer, seemingly regardless of the analytical content. The proof of this practice is in the continual factual errors reported to us, and, since the clinician's evaluation is, in part, based on historical factors, it is difficult to imagine how a conclusion based on erroneous information can be valid.

Inmates often report their comments and statements in the interview are quoted out of context in the evaluations presented to the parole panel, mis-represented or even manufactured. A recorded and transcribed interview would alleviate this issue and provide prisoners and attorneys factual basis to challenge the evaluations. Which may be the sticking point in this suggestion; the FAD will oppose. However, if, as the FAD hierarchy maintains, the FAD-produced evaluations are the epitome of accuracy and state of the art clinical reports, why should they oppose transcriptions?

We will continue to advance and advocate for this practice, believing that until we can fundamentally change or eliminate the FAD and the shoddy, pernicious result of their sham interviews a transcript of the actual FAD interview may be the prisoners' best instrument to prove their case. We are interested in the opinion and input from our readers—let us know of factual errors in your psychological evaluations and if you would support the recording and transcription of interviews by FAD psychologists.

AND NOW FOR SOMETHING COMPLETELY DESCPECIBLE

Meet the California Staff Assault Task Force. This little known and totally malevolent group, masquerading as a non-profit organization, makes its living and lines the pockets of that under-paid, under-served and underhanded cohort, the CCPOA, by looting the paltry resources of prisoners accused of assaulting, in any way, prison guards.

CSATF doesn't criminally prosecute already incarcerated individuals accused of staff assault, they don't write 115s or appear in the kangaroo courts that review disciplinary matters, or assign prisoners to AdSeg or SHU. What they do is file suit, often in small claims court actions, against the 'assets' of prisoners for injuries allegedly suffered by guards in the course of their jobs and at the hands of inmates.

Do prisoners have assets? Of course! Canteen accounts, PIA accounts, maybe small savings or trust accounts on the outside, being held for them till their release. Why, they even have property—you know, those desirable battery operated, clear-cased TVs, radios, CD players, hot pots, stingers—all those fun and really nifty items most free people just can't wait for the chance to get their hands on. And in a pinch, there's even stamps and unopened canteen items. Whatever it is, CSATF wants it.

While we are not making light of staff assaults, or inmate assaults, the idea of a pernicious group like the Staff Assault Task Force filing suit against inmates is nothing short of predatory. Staff members who suffer an assault by inmates have many remedies available to them, not the least of which is their union and workers' compensation claims. Inmates accused/convicted of staff assault (and it's often largely the same, to be accused is a direct line to being convicted) are punished in a variety of ways, from new criminal charges and terms, to 115s, to AdSeg , or a combination of any and all.

Then there is the nature of 'assault.' There is no question that guards are physically injured at the hands of inmates, and for that, we offer no excuse. But in the broad definition of assault, and no one uses a broader definition that CDCR, assault can mean anything from verbal abuse, to exhibitionism, even accidental contact. Indeed, in one case an inmate who had been beaten and pepper sprayed was sued because, in holding him under an outside water source to wash off the pepper spray, one CDCR employee allegedly was 'injured' when spray-laden water bounced off the prisoner and into the face of the guard. Oops. But according to CSATF, that qualifies as an assault by the inmate.

Started in 2003 with offices in Quartz Hill, California, CSATF's website boasts of over 350 cases and a more than $10.5 million in judgments. For $10 per month CCPOA members can buy the litigation services of the task force, should they decide they want to go for that something extra. And they often do. And when CSATF sues an inmate in small claims court, they nearly always win by default, as the prisoner is unable to attend the court session and in small claims, attorneys are not allowed.

But in at least a couple of cases, when a brief was filed with the courts on behalf of the inmates, suddenly the suit was withdrawn. So we're not dealing with Braveheart here. Also of interest are the political affiliations of CSTAF; they are closely associated with and contributors to many victims' rights groups and in 2008 they were the third largest donor to the campaign of former Sen. George Runner (R-Orange County), he of the blood-will-be-running-in-the-streets hysteria. No surprises there.

And though one member of the group maintains CSATF protects staff from "frivolous complaints against the staff" we are still looking for those allegedly numerous instances when custodial staff was unwarrantedly punished for injuring inmates.