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

Public Safety and Fiscal Responsibility

MAY 2012 *LIFER-LINE* VOL. 3 ISSUE 5

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2012

FAD CHALLENGED IN FEDERAL COURT

Johnson v Shaffer filed by Keith Wattley of UnCommon Law

From its inception, Life Support Alliance has been a leader in the fight against the Board of Parole Hearing's notorious and noxious Forensic Assessment Division (FAD) and its flawed, inaccurate, damaging and ultimately illegal psychological evaluation process. LSA was the first to call for a public hearing when the BPH attempted to quickly pass Section 2240, which ratified and legalized the FAD and filed extensive objections against the adoption of 2240, not once, but twice. We have haunted the halls of the legislature and repeatedly bedeviled the BPH at monthly open meetings on the improprieties and inadequacies of the FAD, the clinicians and the reports.

We have become, through tenacity, research and resolve, experts in all things FAD and have been able to provide information, background and perspective on the FAD to the legislature and other groups examining the psychological evaluation process, including attorney Keith Wattley of UnCommon Law.

Now, in what we can only hope may be the beginning of the end, Wattley has filed legal action challenging the workings, authority and existence of the FAD. Kuodos to Wattley for taking on this task on behalf of one lifer, with the possibility the action could expand to include lifers as a class.

In late April Wattley filed a civil rights action in the federal district court for the Eastern District of California on behalf of Sam Johnson, a lifer at San Quentin. Under the Fourteenth Amendment and State constitution the litigation seeks "declaratory and injunctive relief under constitutional, statutory and regulatory law against officials of the California Department of Corrections and Rehabilitation (CDCR) and its Board of Parole Hearings (BPH) for applying unlawful procedures to consider his suitability for parole."

Named as defendants are BPH Executive officer Jennifer Shaffer, Secretary of Corrections Matthew Cate, Governor Edmund G. Brown, Jr. BPH's Chief Psychologist and FAD head Dr. Cliff Kusaj, Dr. Richard Hayward (the FAD psych who wrote Johnson's evaluation), and the BPH Commissioner and Deputy Commissioner who denied Johnson parole based on the FAD eval, Thomas Powers and Al Fulbright. Thomas Powers is no longer a BPH commissioner, but the remaining named defendants are still at the BPH. Prisoner Johnson is serving a 4 year determinate sentence plus a 25 to life term for murder and related offenses in 1991, crimes for which he has always maintained his innocence.

This legal action, however, addresses not Johnson's original case or guilt, but rather the parole process, in particular the FAD's psychological evaluations, methods and manner of use. In specific, the suit specifies over a dozen causes of action including:

- The FAD uses invalid tools in psychological evaluations
- The BPH used false and misleading statements to justify the FAD to the OAL
- There is no mechanism for acknowledging or correcting errors identified in the evaluations
- The BPH defendants refused to provide Johnson or his attorney with information to verify the validity or relevance of Hayward's report to Johnson's suitability for parole
- The BPH's refusal to provide such information deprived Johnson of the information he needed to protect his rights
- The BPH's failure to provide adequate records of the actual interviews makes the reports resultant from those interviews unreliable
- There are no standards used by FAD clinicians to establish risk categories, therefore those categories lack consistency in labeling subjects' risk levels
- Objections of prisoners to the evaluation are often not presented to the parole panel, thus preventing a meaningful review of the evaluation by the commissioners, which violates the prisoners' right to due process
- The BPH refuses to allow FAD psychologists to appear at parole hearings in violation of due process as referenced in PC 2081.5
- The BPH routinely overlooks factual errors and omissions in FAD reports in violation the Fourteenth Amendment
- In contravention of Section 3041 that the board 'shall normally find' prisoners suitable at their initial hearing, less than 1% of prisoner are so found
- The BPH's refusal to allow prisoners to call witnesses, even adverse witnesses, at hearings, a right afforded to other inmates, is a violation of the Fourteenth Amendment providing equal protection under the California Constitution.
- In their efforts to justify establishment of the FAD the BPH "made numerous false and misleading statements" to the OAL and failed to address the objections filed with the OAL in response to the proposed legitimization of the FAD.

Of these particulars spelled out in Wattley's case, LSA has been in the forefront of finding, collecting and using information relative to at least 8 of these issues. The Second Cause of Action notes CDCR mislead the Office of Administrative Law (OAL) in justifying the use of tests by the FAD, specifically in the department's untrue assertion that a panel of experts agreed on the tests to be used: LSA was first to ferret out this significant nugget of information by contacting all six of the experts involved to reveal there was no such consensus and photographing the alleged 'minutes' of this meeting, which in reality are nothing but scribbled notes. The Sixth Cause of Action notes the BPH refuses to record and transcribe psychological evaluation interviews: LSA has repeatedly and publicly, in the monthly Executive Meeting of the BPH, called for such recordings and put this call on the public record.

In the Seventh Cause of Action the suit notes the tests used in FAD evaluations are not standardized and are arbitrary, an argument LSA made forcefully in public BPH considerations of approving Section 2240. The Tenth Cause of Action speaks to the numerous factual errors often found and uncorrected in FAD emulations; LSA has collected numerous examples of the egregious factual errors and repeatedly brought them to the attention of both the BPH and the legislature. This has already resulted in administrative action by the BPH in some individual cases and to a call by the Senate Rules Committee for an investigation of factual errors in FAD reports.

The suit's Eleventh Cause of Action addresses Section 3041 of the Penal Code, which famously notes the BPH 'shall normally find' an inmate suitable for parole at his/her initial hearing; LSA has been in the forefront of reminding, and in some cases, educating for the first time, legislators on the issue of 'shall normally find.' In the Twelfth Cause of Action the right of prisoners to call witnesses in their behalf at hearings is brought forward; LSA has asked, and been granted, permission to attend parole hearings, the first such prisoner-oriented group in memory to be allowed to attend hearings. And while we cannot speak or advocate within the hearings, the mere fact that we are there (kudos to BPH Executive Director Jennifer Shaffer for granting permission) is a step in the right direction. But witnesses are still not allowed.

The Fourteenth Cause of Action again covers the misleading representations made by the BPH in relation to the consensus of experts on the methods in use, with particular attention to the alleged court mandate to establish the FAD; LSA, in our written objections to both versions of Section 2240, strongly pointed out there is no court mandate to establish the FAD and indeed, the CDCR changed its stated position on such policy within the space of a year. Cause of Action Number Fifteen speaks to the BPH's failure to comply with California Administrative Procedures Act, including their failure to address the massive objections to enactment of 2240 and the clandestine manner in which the regulation was ultimately adopted; LSA undertook an extensive research effort of all objections to 2240 and the BPH's response, or lack thereof, to each and was the first organization to expose and document the under the table nature of the ultimate approval.

In support of the court action, captioned *Johnson v Shaffer*, Wattley continues to seek input from lifers who have experienced some of the egregious activities noted in the suit through a series of questions included in this issue of *Lifer-Line.* As often mentioned, LSA is not a legal firm and as such, does not have the expertise or resources to file court action, so we are gratified to at last see a suit of this nature come to fruition and commend Wattley for taking the initiative in filing legal proceedings.

WATTLEY'S QUESTIONS RE: FAD

The following questions are posed by Keith Wattley of UnCommon Law in an effort to gain continuing evidence in support of Johnson v Shaffer, recently filed in challenge to the FAD. We urge all lifers to examine their psychological evaluations and respond to Wattley's questions if applicable.

If you have any personal experience with (or information about) any of the following issues, please write to Keith Wattley at UnCommon Law, 220 4th Street, Suite 103, Oakland, CA 94607:

1. Expert opinions stating that the PCL-R, HCR-20 or LS/CMI are not valid predictors of future violence among a population like California's Lifers.
2. Challenging FAD evaluations based on either one substantial or three administrative errors, or both.
3. Requests to have psychological interviews tape recorded.
4. Requests to have FAD psychologist present at parole hearings.
5. Unexplained changes in risk assessment from one evaluation to the next from "low" to either "moderate" or "high."
6. Attempts to interview or speak with FAD psychologist after the report is written but before the hearing.
7. BPH either overlooking substantial errors when the rest of the evaluation puts the prisoner in a negative light, but emphasizing errors when the rest of the evaluation puts the prisoner in a positive light. This includes the BPH finding the report to be inconclusive.
8. You requested the raw scores or underlying data that supported the FAD psychologist's report.
9. You requested to call witnesses (either friendly or adverse) at your parole hearing.
10. The FAD psychologist gave you a diagnosis of Antisocial Personality Disorder even though you had little or no previous criminal or delinquent history.

. You were denied parole at an initial hearing when the risk assessment was "low" or "low/moderate".

12. You have seen inconsistent labeling (low, medium/moderate or high) of numerical findings. For example, on one scale a 6% ranking would be labeled "medium," while on another scale a 7% ranking would be labeled "low."
13. BPH hearing panel conducted very little or no review of your written comments/objections to FAD psychological evaluations. For example, your written comments/objections did not make it into the Board Packet or was not presented to the hearing panel in a timely manner.
14. The BPH has defended its decision to use the PCL-R, HCR-20 or LS/CMI, including their reliance on an expert panel who reached a consensus on these tools.
15. The BPH violated California's rulemaking statutes when developing the FAD regulations.
16. Any other FAD problem not listed here.

Book Review: "Life After Murder – Five Men In Search of Redemption"

Author: Nancy Mullane Published by: Public Affairs Books, June 2012; 352 pp.
(Hardcover $17.63, amazon.com)
Review by John Dannenberg

With a gripping meld of investigative journalism and personal involvement, author Nancy Mullane digs into the true meaning of "life with the *possibility* of parole" for California murderers. Tracking the cases of five men who have done much more time than their minimum sentences, and whose families unswervingly supported them for decades in hope of their eventual release, Mullane learns the ropes of what it takes to get paroled from a life sentence in California. Visiting the men weekly at San Quentin State Prison, she earns the respect of prison staff, and the trust of the lifers, to be allowed meetings in cell blocks, the chapel, and the prison yard.

None of the five is certain that the Board of Parole Hearings will ever find him "suitable" and fix a parole release date, much less that even if it does, the Governor will not reverse the Board. Delving into each one's difficult story of their crime; getting to know their family members on the streets; interviewing the prisoners' attorneys; querying staff – from prison guards to seasoned prison executives – Mullane took the pulse of every facet of the parole process.

More than just reporting on the status of parole hearings, Mullane learns the intimate details of self-help programs the men depend on for rehabilitation; how prison disciplinary reports can ruin one's hopes for a "date"; and how the men and their families deal with the repeated disappointments of parole denials and reversals.

Mullane makes effective use of the "flash back" writing style, putting an element of suspense in the book that mirrors what the men and their families are contemporarily going through. All are eventually paroled (a rare event for California lifers), and Mullane follows each one home to chronicle the moments of joy of the families and the lifers as they first taste freedom, following decades of confinement. Importantly, Mullane continues to follow their lives as the five struggle to reintegrate into society

Life After Murder serves a need for public understanding of what California's lifer parole process really involves; it serves the dual purpose of reporting that the recidivism rate of such paroled murderers is less than 1%, permitting the reader to be informed that releasing the "worst of the worst" prisoners, murderers, is – counterintuitively, but importantly – a win-win situation for the financially strapped California prison system as well as for its 10,000 parole-eligible lifers.

Life Support Alliance highly recommends Mullane's well researched, compassionate and understanding book. Even if you think you know the prison and lifer world, this book will give you a new perspective and added hope.

MAIL TREE EXPERIENCES A GROWTH SPURT

A huge, huge thanks to all our supporters for the response we received after calling for help in mailing our free newsletter, *Lifer-Line*--it was fantastic, far more than we anticipated and very heartening.

Recent requests from prisoners to be included in our Lifer-Line mailings have grown exponentially, and we were faced with a severe backlog of those wanting the newsletter. But--our great prison family community responded so willingly to our call for help that we have been able to accommodate all names--and we still have a few volunteers left to take up those requests that continue to flow in. If you volunteered and have not yet received a list of names, please know we are keeping your information at hand and you will no doubt soon be contacted. If you've asked to be on the mailing list, you should start receiving *Lifer-Line* shortly.

Those prisoners who would like to be on our mailing list: if you have a friend or family member on the outside who can receive the newsletter via email to print and send to you, please have them email us at lifesupportalliance@gmail.com. If that is not a possibility for you, we will add you to our list, stamps are appreciated, if possible (preferred to SASE) but not required for indigent individuals.

We presently mail out to nearly 500 newsletters, with an email list of nearly 400 more, and with estimates that every newsletter mailed inside is read by 3 to 5 inmates*, Lifer-Line* are reaching as significant part of the lifer population.

Thanks again to all who volunteered. Providing prisoners with information is one of the best things we can do to let them know they are not forgotten and there are many of us working for them. Prospects for lifers are improving and we are committed to making sure those prospects continue to improve and to holding the BPH responsible for following the law.

To subscribe to either *Lifer-Line*, the free mothly publication of Life Support Alliance or California Lifer News, the bi-montly periodical featuring court decisions and other information of use to lifers and now published by Life Support Alliance Educaiton Fund, write to us at LSA or CLN, PO Box 277, Rancho Cordova, Ca. 95741. Subscriptions to CLN are $25 per year for priosners. It is not necessary to subscribe to CLN to receive the free edition of *Lifer-Line.*



CELLS IN CELLS: WILL BLOCKING WORK?

A few weeks ago CDCR signed a contract with Global Tel Link, the for-profit phone company that has a lock on all state inmate phone calls and substantial presence in many county and local facilities, that allows GTL to provide the state with a series of devices to block and/or pin point cell phones in each prison. The contract was signed the day before release of a report from a senate committee that suggested that the department not partner with GTL, as the equipment in question is indeed in question—questions whether it works. But perhaps the timing was just a coincidence.

For many years CDCR has tried, unsuccessfully, to stem the tide of cell phones flowing into prisons. Although each year more phones are confiscated, still the numbers increase, with CDCR always maintaining the fiction that the majority of cells come into prisons via visitors. Secretary of Corrections Matthew Cate has been among those officials decrying cells phones as allowing "potentially dangerous communications by inmates" and troting out the company line that cell phones foster illicit activites, including ordering 'hits' and coordinating gang activities from inside prisons, all done via cell phone.

The department is continually seeking ways to make the proliferating cell phones unusable through technology to block cell signals A recent test at Solano State Prison was declared a success, with a reported 4,000 'hits' blocked. CDCR also claims that the newly-contracted technlongy will block cell signals, rendering inmate cell phones useless and, that although GTL is footing the bill for installing the new technology, the costs of inmate phone calls will go down. Sure.

Now for a reality check. We won't even address the myth of phones coming in via visiting, but let's instead look at the much bally-hooed, just contracted blocking system. While the proposed new technology is said to intercept prisoner communications, in actuality the technology tested cannot capture or prevent 4G, Wi-Fi, MiFi, Skype, text messages, satellite transmission or possibly incoming calls. This according to a report released by the Senate's non-partisan California Counsel on Science and Technology (CCST). Hardly putting a damper on prisoner communications.

And while the recent 'test' at Solano of the Managed Access System (MAS) blocking was successful in identifying some signals, the report from CCST rates the test as "rudimentary and would, at best, constitute a proof of concept, [but] not an acceptable operational test." Reportedly, testers, carrying detection equipment, went from location to location within housing units until a signal was detected, at which point the test was proclaimed a success.

According to the CCST report other significant problems include:

- the inability to block many types of cell communications, including text messages, as mentioned above and possibly incoming calls
- inability to triangulate where signals are originating, thus making it ineffective in locating cells' locations
- "bleed over" of jamming signals into surrounding areas, compromising the ability of citizens and law enforcement to use their cell phones; these bleed over issues may open the department and GTL to possible litigation issues.
- There will be "dead spots" within any facility, where no jamming system reaches and which will no doubt quickly be identified by those with cell phones,
- As technology continues to advance, the static system as installed may not be able to keep up with these changes, thus allowing more cell calls to circumvent the MAS net

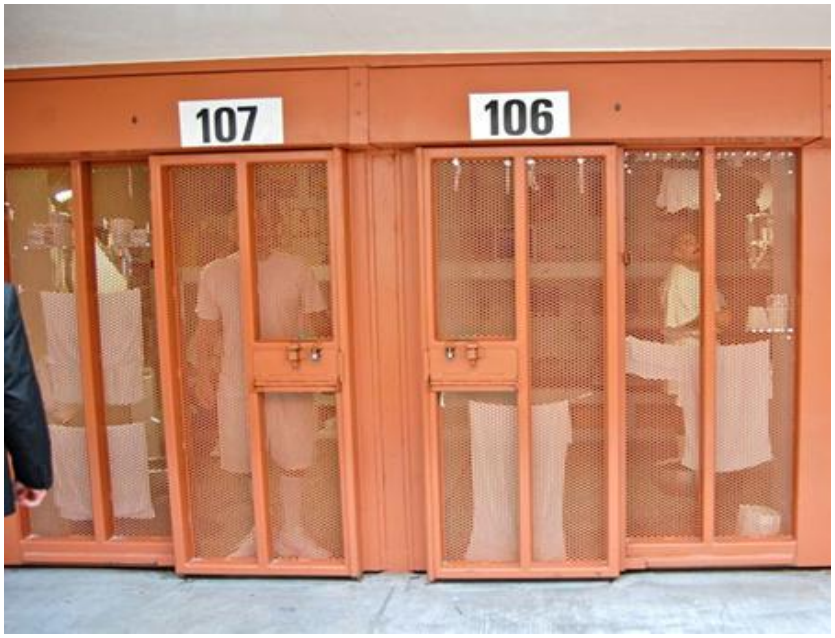
The science and technology panel called the issue of prison cell phones "complex" issue that will "require a multi-pronged approach to address." The council recommends CDCR institute "airport like security screening" at all prison gates and conduct thorough searches of all items, vehicles and personnel at sally ports. And while this sounds simple and logical enough, the howls from CCPOA are already evident.

The most interesting aspect of the CCST's report on the cell phone/prisoner issue dealt with societal issues. Following the logical principal of asking those most involved IN the issue, members of the CCST spoke with prisoners at several California prisons regarding the why and how of cell phones usage. The report gathered "a unique perspective on the contraband cell phone issue. The opinion expressed by some inmates during those visits was that cell phones used by prisoners allowed unfettered contact to family and loved ones otherwise unavailable. The question, "If cell phones were provided as part of the IWTS, and knowing that the calls were recorded, would this deter (authorized) cell phone use?" was answered with a "no"; the inmates indicated that they were used to their calls being recorded when using the IWTS.

"There was also acknowledgment by the prisoners that a percentage – small by the inmates' estimation – of cell phone calls are used for illicit and illegal activity. It was noted by the CCST Project Team that access to cell phones (even if monitored by CDCR via computers with screening software) offers to many inmates an ongoing connection to family and friends, as well as entertainment on smart phones (such as games, videos and ESPN sports games). Consideration could be given to piloting a method to screen contraband cell phone calls (rather than blocking) to better understand the impacts that the phones have on prisoner recidivism and overall prison temperament." This novel recommendation is analogous to LSA's repeated suggestion that limited use cell phones be allowed as an earned privilege and a way to bolster the family unity connection that CDCR repeatedly says it is committed to bolstering, yet takes every action conceivable to damage.

There is no announced time line for the installation of the MAS systems in the institutions but it is expected to begin within the next 6 months. The length of time needed to fully install all systems and just how well they will work, what problems will be manifested and how the CDCR will spin the results will be something we will be attentive to and reporting on.

In the interim, while the department seems smugly satisfied with its new contract, we suspect the CCR report is correct and MAS method will do little to impede the operation of cell phones in prisons; more importantly, it will do nothing whatever to prevent the introduction if this and other contraband.



SUIT FILED IN SHU CONFINEMENT AT PELICAN

Although the CDCR recently announced proposed changes in the gang validation and SHU confinement process, those changes have been "under review" for more than a year and have yet to go into effective operation. Total implementation of the changes is not expected for several years. And by that time, the question of the legality of prolong SHU confinement at places like Pelican Bay may be a moot point, if a recently filed suit is decided in favor of the plaintiffs.

On May 31 the Center for Constitutional Rights (CCR) filed suit in federal court for the Northern District of California on behalf of prisoners at Pelican Bay's SHU, alleging extended virtual solitary confinement in SHU conditions violates the Eighth Amendment to the US Constitution, barring 'cruel and unusual punishment.' CCR's court action took over and revised an on-going 2009 court action filed in pro per by two Pelican Bay prisoners, Todd Ashker and Danny Troxell, who

are among 78 prisoners held for more than 20 years in the SHU. Incredibly, Ashker filed the hand-written 2009 suit on behalf of himself and Troxell, laying the ground work for the more far-reaching and comprehensive class action suit by CCR.

The newly filed action*, Ruiz v Brown*, addresses the hundreds of inmates held for more than 10 years in the SHU. Among the charges contained in the complaint is that "California's uniquely harsh regime of prolonged solitary confinement at Pelican Bay is inhumane and debilitating…Indeed, the prolonged conditions of brutal confinement and isolation at Pelican Bay cross over from having any valid penological purpose into a system rightly condemned as torture by the international community."

The new suit alleges that while the soundproof cells that constitute SHU quarters were originally meant to house prisoners for no longer than 18 months, about 500 have been in SHU for over 10 years, 200 for 15 years and 78, including original litigants Ashker and Troxell, have been so confined for over 20 years.

"There is no other state in the country that keeps so many inmates in solitary confinement for so long," said Alexis Agathocleous, a CCR attorney. While not commenting directly on the pending litigation CDCR spokesman Jeffrey Callison gave the standard promise, "CDCR will increase privileges for inmates housed in a Security Housing Unit who refrain from criminal gang behavior."

Although SHU conditions have been unsuccessfully challenged in previous legal actions, few of those have suits have benefited from professional legal representation. In addition to CCR, legal representation in *Ruiz v Brown* includes co-counsels Legal Services for Prisoners with Children, California Prison Focus, Siegel & Yee, and the Law Offices of Charles Carbone.

BPH FOLLOW UP

Recent conversations with BPH Executive Director Jennifer Shaffer touched on several issues, both on-going and new. Herein is an update on some continuing issues:

INMATE ATTORNEY LAPTOPS: Ms. Shaffer reported she is working with CDCR and various prisons to try and resolve (what else) security concerns involving possible inmate contact with laptops of their attorneys. Ms. Shaffer is seeking a procedure wherein prisoner attorneys would be allowed to access their laptops for parole hearings, but would not bring them to individual prisoner consultations, where, apparently, prison personnel fear inmates might somehow have internet access.

RECORDING OF PSYCH EVALS : Ms. Shaffer indicated one of the biggest obstacles to this is money. At present the BPH has no funds to pay for the transcriptions that would result from psych evals being recorded. Ms. Shaffer also indicted clinicians in the FAD were also opposed to such recordings, but, given the suit against the FAD chronicled elsewhere in this issue, that could perhaps change. LSA will continue to seek a resolution to this issue.

120+30 DAY REVIEW: The Director noted that while she would very much like to shorten the time taken for the review, it was, again, primarily a function of budget and workload and perhaps in some ways, a victim of the success of collective efforts to increase the parole grant rate. Ms. Shaffer indicated that the BPH is presently processing 10 to 15 lifer parole dates each week (an encouraging trend!) and with such a workload and the number of investigators presently available, the BPH often needs every one of its allotted 120 days, and the Governor, his 30 days.

TIMELY ARRIVAL OF HEARING TRANSCRIPTS: Following the identification by LSA of a major delay in delivery of hearing transcripts (87 transcripts, some as much as 6 months old, were discovered languishing undelivered in the Solano mailroom following inquiries by LSA), Ms. Shaffer initiated a review of procedures that exonerated the BPH in the delay. This is, however, of concern to the BPH. Any prisoners experiencing a significant delay in receiving their transcripts are urged to contact LSA.

COMMISSIONERS; Recentlyconfirmed by the Senate Rules Committee were Commissioners Jack Garner, Peter LaBahn and Dan Figueroa.

TITLE 15, DOM AND OPS—A BATTLE FOR SUPREMACY

Many thanks to Bob Driscoll, long-time IFC member and reform mover and shaker, for this summary of DOM vs. local OPs procedures. This is a thorny issue for both prisoners and visitors, as both groups are often faced with prison staff adamant that their locally written Operational Procedures override all else (with the possible exception of the Bible). As Bob explains, the area of authority for local OPs is limited, but contentious.

Most of the friends and relatives of the incarcerated enter a different world when visiting their loved one. We experience to some degree the rules and regulations that they face in our trips to the facility on visiting days. Consider the difficulty that the prisoners have with the OPs that have been written for the inside functions. They don't have the same ability as the visitor does to make a complaint. The DOM and DOM Supplements are reviewed by headquarters. The OPs are not. In fact they have become known as the Underground Regulations in the system. Since they are not reviewed, except by the local prison, the compliance with the DOM is always questionable. The difficulty for prisoners to know both the DOM rules and the need for an OP (which does not affect the DOM) is great. The willingness of staff to conform to the rules and if challenged to justify an OP is questionable at best.

The DOM itself lays out the purpose of DOM supplements and local OPs in DOM Sections 12010.6 through 12010.6.4. In short, DOM is statewide policy for CDC (Title 15 is state law), DOM supplements are meant to "clarify and not restrict, expand or conflict with DOM provisions" and "not create new policy" (12010.6). And in terms of authoritative pecking order, Title 15 is tops, followed by DOM, DOM supplements and local OPs.

Prime example is the DOM citation 54020.15, which notes "photographs, papers or documents" are permitted into visiting. Since there is no DOM definition of what a document is, a variety of interpretations were developed depending on the prison. The OPs changed the DOM in many areas. Further all prisons did not recognize this visitor right at all. Some staff to this day deny that visitors can bring in documents. Some members of staff made their own interpretation of what "document" was allowed, etc., etc. A letter by the Director was issued trying to put the problem of local refusals to permit some or all documents to bed by stating that anything that could be mailed in could be brought in. *(Ed. Note: for further clarification and documentation that documents/papers are allowed see Page 7, CDCR's "Visiting a Friend or Loved One in Prison" handbook, available on line, clearly stating anything that can be mailed in can be brought in to visiting. Nothing can be left with the prisoner; all photos and documents/papers brought to visiting must go out with the visitor.)*

As you can see the battle is a difficult one. Consider the difficulty that the prisoners have with the OPs that have been written for the inside functions. The Men's and Women's Advisory Groups, (MAC and WAC) are the areas that the underground regulations must be handled. It is a challenge but I get the strong feeling that OPs have become the instrument of change at the local prison as a way of subverting the DOM regulation.

(Ed. Note: As Bob Driscoll explains the DOM is statewide policy, Title 15 is law; local OPs are meant to address minor local variances and are not to be more restrictive than or conflict with DOM provisions. This is a hard concept for many prisons to grasp; it takes work and often involvement of the IFCs, up to and including reaching out to Sacramento.)

FEDERAL RECEIVER TO MAINTAIN CONTROL OF PRISON MEDICAL

On May 30, 2012 Judge Thelton Henderson, while noting that reports indicate the department had made "significant progress in improving the delivery of medical care" to California prisoners that progress was not yet complete. And thus, the Receivership, controlling, upgrading and monitoring the delivery and quality of health care to inmates in California, will stay in place.

And while Judge Henderson said in January that "the end of the Receivership appears to be in sight," after consideration of the plans and proposals presented by both CDC and other stakeholders in the case, the Judge found that presently "the record does not contain sufficient evidence to support [the] assertion" that the state is fully ready to assume control and maintain the quality of prisoner health care. The Inspector General's office will continue to monitor and evaluate the CDC's compliance with the on-going health care plan.