



*Hunger strike supporters rally at CDC headquarters Oct. 5*

### **HUNGER STRIKE; SECOND BITE**

As the prisoner hunger strike to protest conditions in California's SHU gulag enters its second round, CDCR officials appear to be upping the ante. In a series of memos issued within the last 10 days the department has laid out a series of procedures clearly meant to break the strike, either through direct action against those participating or by thinly-veiled threats that the strike could so endanger the "safety and security" of various prisons it would require "modified programming," the department's pet code phrase for lockdowns.

In a pair of memos dated Sept, 27, 2011 and widely distributed among prisons and prisoners departmental Undersecretary of Operations Scott Kernan managed to be self-congratulatory, defensive and vaguely menacing, all in the space of three pages.

In a memo "Review of Security Housing Unit and Gang Policies," Kernan noted the department has undertaken a review of the Gang Validation Process, one of the chief issues contributing to problems with SHU confinement. The memo touts the CDCR decision to "review" the process and claims "much has already been done," but also cautions "change will take several more months to implement."

Along the line of self-congratulatory "much" that has already been done Kernan specifically lists the authorization for SHU prisoners to purchase watch caps, sweat pants and wall

calendars. And the allowing of (unspecified) exercise equipment in SHU yards, hobby items (colored chalk, pen fillers and paper), and use of proctors for college exams. Annual photographs will be allowed and the CDCR ombudsman's office will monitor food services. Pause for applause.

However, taking on a defensive position when addressing the real crux of the issue, abuse of the gang validation process that is still undergoing a "comprehensive" review, the memo states the initial review will be completed shortly. It also notes the Secretary must approve the changes, which will then be sent for stakeholder review and comment. Only then will the department initiate the administrative process necessary to change the law, a course of action that can take well over six months, as we have recently witnessed as the BPH attempts to change the law regarding lifer psychological evaluations (see articles in this issue as well as July and August *Lifer-Line*).

But it is the last sentence of the memo that is most revealing. "Of course this work may be delayed by large-scale inmate disturbances or other emergency circumstances." Read continuation of the hunger strike

This last sentence provides a convenient segway into the second memo issued on the same day, addressed to all CDCR Inmates and titled "Inmate Programming Expectations Relative to Hunger Strikes." Also under Kernan's signature this memo promises the department will not brook "(p)articipation in mass disturbances," and lays out specifics to be used against those involved in the strike. These include disciplinary action, isolation of identified leaders in AdSeg (though with many of the strikers already in the SHU, the ultimate AdSeg, this seems a bit redundant) and "other measures" which will include removal of canteen items from participating inmates.

Labeling the non-violent hunger strike a "disturbance" that could impact prison operations the memo threatens such actions could "unavoidably" impact programming for all prisoners, then proceeds to drag families into the mix, noting inmates and families will be notified of modified programming. Not hard to read between the lines: if the hunger strike continues or spreads, lockdowns will make visiting impossible.

Kernan's memos are the public presentation of a much longer, department-only memo issued five days earlier by George Guirbino, Director of Adult Institutions. This three-page plan delineates what actions prison officials are to take against hunger strike participants. These include:

- Isolation of participants from general population
- Isolation of strike leaders including placement in AdSeg
- Removal of canteen/food items from participants' cells (a clear attack on the strikers' reported tactic of rotating strikers to prevent health concerns)
- Monitoring of all calls and letters and suspension of visits for leaders
- Ensure disciplinary action is taken, including placing specified areas, up to and including the entire institution on "modified programming" which would suspend visiting and attorney visits except for those prisoners with "active legal cases."
- When it is determined an inmate's health is being impacted by participation in the strike, medical personnel are "authorized to provide the inmate with liquid supplements/nutrition," though whether this will be done involuntarily is not specified. What is noted is that should this supplemental nutrition be

“provided,” staff is to fill out a 128C which would indicate the inmate has received nourishment and thus is no longer a hunger strike participant. By all means, let's be sure the paper work is done.

Clearly, CDCR intends to break the hunger strike by use of virtually any means, including threatening the loss of visiting and other privileges for all inmates as a wedge issue. Would it not be easier, more productive and certainly more honest, to address the core issues of the hunger strikers, the issues of torture practices, deprivation of rights and unconscionable treatment?

We can imagine a memo addressing that procedure.

- Don't torture anyone for any reason
- Get gang validation right, the first time
- Respect human and constitutional rights
- *Do the right thing, even if it isn't the easy thing*

### **MAILTREE BRANCHES NEEDED**

Life Support Alliance is asking for help. We need volunteers to assist in mailing our newsletter to indigent prisoners, via our mail tree. Presently we are mailing approximately 300 newsletters to prisoners, in addition to the nearly 250 going out via email to friends and families of prisoners.

As might be expected, the cost to print and mail the 300 going out by regular mail is a daunting amount each month. We have a handful of caring and responsive volunteers who assist, by adopting 8-10 prisoner names to whom they mail the newsletter each month, using LSA's address as the return address. Not a pen-pal service, no letters or communication required, just printing and mailing of the newsletter.

If this is a task you are willing to adopt and faithfully fulfill, please email us your willingness to help and how many prisoners you will be responsible for and we'll send you a list of names and complete addresses. If you are a prisoner currently receiving the newsletter by mail and have a family member or friend on the outside who would be willing to receive the newsletter by email and be responsible for mailing it to you, please send us that email contact, to let us know we can reach you in this manner and no longer need to send you information by direct mail.

Our commitment is to send *Lifer-Line* to each and every prisoner who wishes to receive it, and our mail tree is one way to make that happen. Thanks in advance to those who can help.

### **THE FAD AS VAMPIRE** ***Evil, life-sucking, and afraid of sunlight***

As suspected, the BPH is up to their underhanded tricks. Shortly after the original Sept. 2 deadline for the board to respond to the latest objections to the Forensic Assessment Division (FAD) LSA discovered the acting Director of the Office of Administrative Law (OAL)

granted the BPH and extension of time to file their response to the FAD objections, without giving any public notice or announcement. **Even the staffers at OAL were unaware of this extension** until we started asking questions.

As a result of the extension BPH presented their second Final Statement of Reasons, their answer to the latest round of objections, at the Sept. 20 BPH Executive meeting. We have lodged a complaint the OAL. objecting to both the granting of the extension and the furtive manner in which it was done.

We find it a bit incredible that the BPH, with all its resources and untold numbers of attorneys on staff, couldn't manage to file their response on time; they had from May 5 to Sept 2, without an extension, yet refused to allow a public hearing and only gave stakeholders, including prisoners, about 10 days to submit objections. . We could call this many things, but transparency in government is not among them.

As expected, the BPH commissioners approved the latest Final Statement of Reasons, though for a brief, out-of-body moment this issue seemed in doubt. As Commissioner Jack Garner, serving his term as acting chairman, asked for a motion to approve the latest fairytale, the silence was deafening. As Garner cast glances up and down the dais, expecting a quick motion to approve, the seconds ticked by, stretching to the point the audience, sensing something unusual, came to attention.

Finally, much to the relief of Garner, the motion was made, and in rapid-fire action, seconded and approved. The Final Statement of Reasons now goes to the OAL for consideration to determine if the BPH has adequately answered the objections raised by commenters. A decision by the OAL is due by November 2.



*Looking up inside the dome of the Capitol building*

## **NEW REPORT FROM STANFORD EXAMINES PAROLE PRACTICES**

Over a year ago the Stanford University Criminal Justice Center began an ambitious project to study the lifer parole process in the California prison system. Toward that end the SCJC obtained several hundred parole transcripts representing about 10% of hearings held from 2006 to 2010.

Life Support Alliance has been one organization providing supplemental information and input to the researchers at SCJC, information culled from our own lifer survey study and from numerous parole hearing transcripts we have studied during the last year. Always planned as a multi-faceted report over a period of years, the first of SCJC's reports, *Life in Limbo*, was issued late last month and provides an overview of the lifer parole process.

And while there are few real surprises in the study it does reveal some interesting nuances to the parole process as well as validation of some long-held positions. The greatest impact this and succeeding SCJC reports may have is that they are thoroughly researched and vetted by an esteemed academic source, known for meticulous research and empirical conclusions.

The report does present some preliminary findings, among which are the following:

A lifer now stands an 18 percent chance of being granted parole by the Board of Parole Hearings. The grant rate has fluctuated over the last 30 years—nearing zero percent at times and never arising above 20 percent. The change in the rate could be attributed to changes in characteristics of the inmates appearing in a particular year, changes in the composition of the board, and court clarification of standards the Board should use in determining suitability or other factors. Grant rates vary significantly year to year: the grant rate in 2010 was nearly triple what it was in 2007 and 2008. When victims attend hearings, the grant rate is less than half the rate when victims do not attend.

While an inmate's chance of being granted parole has increased in the last two years, the length of time he or she must wait for a subsequent hearing when denied parole has also increased (though there is a legal mechanism by which an inmate can petition the Board to advance his/her hearing by a showing of, among other things, changed circumstances).

The likelihood of a lifer convicted of murder being granted parole by the Board and not having the decision reversed by the Governor is—and always has been—slim. In 2010, the probability was approximately six percent.

The size of the lifer population has increased as a percentage of the overall California prison population from eight percent in 1990 to 20 percent in 2010. Most individuals serving life sentences with the possibility of parole are serving time for first- or second-degree murder.

There is no statistically significant difference in the grant rates of various types of offenses. One factor strongly associated with release is whether the life crime involved sexual violence. Other factors that do not relate in any statistically significant way include the use of a firearm in the life crime or the number of people the inmate victimized in the commission of the life crime. Prior record does not appear to significantly affect release decisions, whether they are adult or juvenile records.

In-prison behavior can affect whether an inmate is granted or denied parole. CDC 115 infractions are strongly associated with the grant rate, though CDC 128 infractions are not significantly associated with the grant rate. Also, the seriousness of the disciplinary violation is dispositive: violent disciplinary infractions—regardless of when they occur—are significantly associated with parole denials.

Scores of psychological examinations administered to predict recidivism risk and inmate psychological stability are significantly correlated with the grant rate. Inmates who receive an average score or higher on these exams virtually never receive parole release.

History of drug or alcohol abuse is not correlated with the grant rate. However, whether an inmate is participating in a 12-step program and whether he or she can correctly answer questions about those steps does affect whether an inmate is granted or denied parole.

A major—perhaps *the* major—question in public debate about the current lifer population is their risk of recidivating. While data is limited, interim information suggests that the incidence of commission of serious crimes by recently released lifers has been minuscule, and as compared to the larger inmate population, recidivism risk—at least among those deemed suitable for release by both the Board and the Governor—**is minimal** (emphasis added).

As results from further study by the SCJC are released LSA will continue to report the information, and will use these fresh studies to validate our message to legislators and the public.

Those interested in reviewing the entire *Life in Limbo* report can access it on line at:

<http://www.law.stanford.edu/publications/details/5240/>

## **NO GAINS FOR GAINES BILL**

There continues to be much confusion and worry surrounding the recently introduced SB 391, the so-called “Parole Reform Act of 2011”, that is in reality an attempt by Republican Senator Ted Gaines to reverse the Lawrence decision.

The cut-to-the-chase, short answer is, no one panic yet. Although the bill has received a good deal of publicity and victims’ groups have made considerable noise, this is not a well-loved, slam-dunk bill.

Introduced very late in the just-concluded legislative session, SB 391 would allow the parole board panels to deny lifers parole based solely on the commitment crime. As lifers and families know, the commitment crime is already one of the main reasons given for denial, often combined with “insight” and “remorse.” The first portion of any parole hearing is dedicated to an in-depth, minute inspection of the commitment crime and in very few denials is the crime itself left out of the reasons given for denial.

LSA spoke with Gaines’ office prior to his formal introduction of the bill, giving him specific figures on lifer recidivism (or lack of), figures supported by the CDCR. The Senator’s response was basically a don’t-confuse-me-with-the-facts stand. And while Gaines’ announced inspiration for the bill is the tragedy of the Jaycee Dugard kidnapping, his office readily admitted passage of SB 391 would not prevent another such travesty. Clearly, the real inspiration for the bill was the publicity value of anything mentioning the Dugard case. Gaines saw his chance at 15 minutes of fame and jumped at it.

We also spoke to the staff of two co-sponsors of the bill, Assembly Members Huber and Bonilla, who admitted neither member had spoken to anyone other than Gaines prior to their

decision to support the bill .Of the other co-sponsors of the bill, tough-on-crime hysterics all (including Gaines' wife, Assembly member Beth Gaines), nothing better could be expected.

As with all bills, SB 391 must make its way through various committees of both Senate and Assembly before votes on the floor of each house. First stop will be Senate Public Safety Committee, chaired by Sen. Loni Hancock (D-San Francisco). Sen. Hancock elected not to take up this johnny-come-lately bill prior to the legislature's recess earlier this month, meaning it will be on the agenda when the Senate reconvenes in January.

LSA has discussed SB 391 with a variety of both Senate and Assembly offices and the reaction to this bill has been somewhat cooler than chilly. In fact, mention of SB 391 is usually met with eye-rolls all around. There seems to be little support for the proposed legislation, the general consensus being this is one bill that does not, in the parlance of the legislature, have "legs." Immediately after Gaines introduced SB 391 LSA issued a call to action from our members, many, many of whom FAXed, called or mailed their objections to this bill to members of the Senate Public Safety Committee, an action that helped cut the "legs" from the bill.

At present it appears our chances of killing this bill at its initial appearance in Senate Public Safety are favorable. However, we are not going to become complacent. Once the Gaines fiasco is calendared in committee we will renew our active opposition and plan to be one of the first to testify in opposition.

For those interested in weighing in now on SB 391, a sample opposition letter as well as contact information on Senate Public Safety Committee members will shortly appear on our website: [www.lifesupportalliance.org](http://www.lifesupportalliance.org). If you elect to offer your opposition now please be prepared to renew your comments when the bill comes before committee.

While SB 391 does not presently have an extensive friends list, no one can predict the vagaries of politics and we will be on alert if the situation changes.

## **PPF AT LAC—LET THE PROGRESS CONTINUE**

There is so much wrong with California prisons that when something-- program, person, idea, goes right it is not only worth mentioning, it is worth celebrating. And when the existence of that something right is threatened, well, then it's time to speak out.

Case in point: the Progressive Programming Facility at CSP-LAC. In existence under one name or another for the past 10 years, the PPF (sometimes called the Honor Yard) is a highly successful program which, over the years, has assisted over 30,000 prisoners in education and rehabilitative classes. LAC's Facility A is home to PPF, and securing assignment there is not easy. All prisoners wishing to participate must meet a 14 point criteria, which begins with no gang or disruptive activity within five years, through agreeing to integrated housing to being eligible for Level IV, 270-design.

As currently structured the PPF is in line with the California New State Initiative, part of AB 900, which contained, as part of restructuring of California prisons, a requirement that the CDCR develop inmate treatment and employment plans through expanded educational and vocational opportunities. The PPF program facilitates these goals through GED tutoring, business classes to increase financial literacy for prisoners and classes in business



comportment. All of these classes are done through peer interaction and support. As Burnell Kelly, none of the PPF leaders writes, “we hold each other to a higher standard.”

The 70-hour core curriculum covers job searches, transitional planning, job application, resume writing and interview techniques, all in preparation to returning lifers, and other PPF participants, to their communities with tools enabling them to become the contributing members of society they aspire to be.

As successful and important as this program is, it’s hard to understand how there could be opposition to it. But of course there is. Whether rooted in union skullduggery, laziness or simple vengeance, PPF/Honor Yard programming has always had to fight to survive, let alone thrive and spread the success to other institutions, all of which could benefit from the model at LAC. Over the years supporters have made pleas to CDCR and individual legislators to continue PPF programs. While so far successful, each year presents the challenge anew.

LSA fully supports the PPF program, both in intent and practice. Hello CDC, this is working! It shows in the faces of its many participants and smiles of sponsors standing with graduating classes. It shows in the lower recidivism rates of those prepared to resume life in society and in the peaceful and productive programming of the yard. It’s time for CDC to live up to the lip service it gives to rehabilitation and not only support PPF at LAC but allow it to spread to other prisons across the state.

We will carry this message to legislators, officials at CDCR with whom we speak and the public. Those interested in knowing more about PPF or investigating the potential to initiate a PPF program at another institution, drop us a note or an email and we will pass your queries along to those at LAC’s PPF program.



*Supporters of SHU hunger strikers take message to CDCR offices on October 5*



