



## **THREE STRIKES REFORM PASSES BUT NO EASY OUT**

After years of state ballot measures that brought more and harsher punitive sentencing and terms on inmates the recent November elections finally brought some relief to the over-burdened system and long-serving inmates. California voters passed, by a very comfortable margin, Prop. 36, a reform to the Three Strikes Law that may allow some individuals sentenced to lifer terms for relatively minor offenses to drop the “to life” from their sentence.

Passing by a 68.6% to 31.4% margin, the 3 strikes reform will allow prisoners to petition their sentencing courts to recall and modify their sentences. Although certainly not a get-out-of-jail free pass, the reform has the potential to impact over 3,000 state inmates and save up to \$100 million taxpayer dollars over the annually. But it is not an automatic reduction of sentence and will not apply to all three-strikers.

Those serving a life sentence for a third strike that involved rape, murder or child molestation are excluded from coverage by the reform. Those who may qualify must file a formal petition to the court and meet stringent qualifications for consideration. Courts will want to see good disciplinary history for the years the inmate has spent in prison, participation in self-help programming and assess the prisoner’s chances for success if released. Even if the court then agrees to remove the “to life” sentence, the inmate must serve double the usual time for their ‘third strike’ crime.

While it is yet early days since the passage of the reform it appears several counties and other agencies are in the process of creating an appeal packet for use by prisoners wishing to petition the courts. The Santa Clara County Public Defender’s office has offered a multi-page, rather complex document that may be difficult to complete for some prisoners, including names and addresses of past attorneys, medical history and past offenses.

The Prison Law Office reports they are in the process of creating a model petition for use in many county courts. That petition will be available on the PLO website in a few days or prisoners who wish to file a petition may write the Prison Law Office, General Delivery, San Quentin, CA. 94964. As other counties or agencies develop and make available templates to request a recall of sentence Lifer-Line and LSA will make that information available to our readers.

## **DEATH PENALTY ABOLISMENT FAILS**

While Three Strikes Reform was passed by California voters in recent elections a companion initiative, to abolish the death penalty failed to achieve the required majority. By roughly a 6 point margin, 52.8% to 47.2%, voters rejected replacing the death penalty with a life without parole sentence.

Winning in less than a dozen, mostly coastal counties, Prop. 34 was overwhelmed by the rest of the counties, where it often went down about two votes against to one in favor. The counties that voted in a favor of eliminating state-sponsored killing were: Los Angeles, Monterey, Santa Clara, San Mateo, Alameda, Contra Cost, Marin, Sonoma, Mendocino and, rather surprisingly, Yolo.

So for now, California remains one of 33 states that retain capital punishment. Since 2000 five states have abolished the death penalty, including the most recent, Connecticut, in the spring of 2012. With the failure of Prop. 34 death penalty advocates have indicated they may attempt a 2014 ballot measure that would call for a resumption of executions of those now on death row. While voters this time rejected doing away with capital punishment supporters of the measure noted that nearly half the electorate agreed with the proposition's intent.

The failure of Prop. 34 has not actual effect on 725 prisoners now on death row. California continues under a moratorium on executions, imposed in 2006 and based on problems with the state's method of administering executions.

## **STATE WILL MISS DEADLINE FOR POPULATION REDUCTION**

According to recent CDCR projections the department and state will miss the court-imposed December deadline for population reduction. Department estimates are that by the December 17 deadline the state prisons will house about 126,000 prisoners, not the 117,000 cap set by the court schedule.

According to department sources the number of inmates still in state custody is larger than predicted due to a drop earlier large numbers of prisoners being released and a continued influx of prisoners into the state prisons by judges and District Attorneys who choose to opt for state sentencing even for those who, under realignment, could qualify for confinement in local custody. Because of this, CDCR expects the total inmate population to actually rise to over 131,000 by 2018.

The three federal judges who issued the population reduction order, a reduction requirement confirmed by the US Supreme Court, have given the state until January, 2013 to develop a plan to meet the overall population reduction, a plan that could include identifying those current state

prisoners who could be released prior to the end of their sentence with no danger to public safety, the so-called "early releases." Any such early releases would not include lifers.

At present the state plans to meet the reduction level by continuing to send California prisoners to out-of-state for-profit prisons (at a yearly cost of about \$300 million), a change in the earned credit system or legislative changes in sentencing. The last possibility is the least likely.



## **SECRETARY CATE RESIGNS, TO ASSUME 'CONSULTANT' DUTIES**

CDCR Secretary Matthew Cate, appointed to his position in 2008 by former Governor Schwarzenegger and retained by Gov. Brown after his inauguration, resigned his post effective November 11, 2012 to assume new duties as the director of the California State Association of Counties. Cate served at California's Inspector General and Deputy Attorney General prior to his appointment to the CDCR post.

Cate's four years at the helm of CDCR included some of the most controversial and fiscally challenging periods in recent corrections history. As the state began to slide into financial tumult the vast amount of tax monies being sucked into the correctional system came under scrutiny and fire by the public and legislators. At the same time California's horrendously overcrowded prison system came under federal review and rebuke for the deplorable medical care provided to prisoners. As point-man in the department Cate became responsible for both reducing the budget of CDCR and population numbers of inmates and improving conditions inside.

Late last year Cate was tasked with implementing Brown's realignment plan, designed to both bring the department in line with federal requirements of population and medical care and save millions in taxpayer dollars as well. At the time Cate termed the plan "a massive change."

"I am grateful to Governor Brown for giving me the opportunity to serve as secretary during the first two years of his administration," Cate said in a prepared statement. "It has been a time of tremendous progress with the successful launch of public safety realignment, and simultaneous reductions in prison population, recidivism, and prison spending."

"While I will miss working with the excellent staff at CDCR, I could not be more proud of our accomplishments over the years," he continued. "In addition to realignment and the accompanying reforms, we have successfully terminated five class-action lawsuits, overhauled the juvenile justice system; improved CDCR's rehabilitative programs, and are implementing a legislatively approved plan that will further these reforms and reduce over-all prison costs. The strong team of professionals at CDCR I leave behind will continue to help propel California towards being a national leader in corrections."

As director of the California State Association of Counties Cate will become essentially become the head lobbyist for California's 58 counties in dealing with legislation affecting them, including corrections reform and actions. Although the county lobby organization is not required to release its officers' salaries, Cate, earned in excess of \$225,000 annually as CDCR head.

### **OMBUDSMAN REASSIGNMENTS/REALIGNMENTS**

The musical chairs at CDCR continues, this time in the Office of the Ombudsman. The Ombudsman's office is the first stop for prisoners and family members who have an issue they are unable to resolve at the local prison level. Officially, "The Ombudsman serves as a key policy and public relations expert, with a focus on ethical decision-making, and has extensive contact with staff, inmates and their families, legislative bodies and community-based groups."

Each of the 5 Ombudsmen are officially assigned 5 to 8 prisons to monitor, visit and basically keep tabs on. Herewith is the latest list of Ombudsmen, their contact information and prisons in their mission. When writing to any of the Ombudsmen prisoners may send their communications via Legal Mail. It is recommended that those prisoners filing 602 complaints consider sending a copy to the ombudsman, as an insurance policy that their complaint is not 'miss-filed.'

CHIEF OMBUDSMAN SARA MALONE: sara.malone@cdcr.ca.gov; (916) 327-8467

High Desert State Prison	California Correctional Center
Central California Women's Facility	California Institution for Women
California Institution for Men	California Rehabilitation Center
VSP-Valley State Prison (formerly Valley State Prison for Women, temporarily co-ed)	

GABRIEL VELA: gabriel.vela@cdcr.ca.gov; (916) 323-2994

California Correctional Institution	California State Prison, Lancaster
Richard J. Donovan Correctional Facility	Deuel Vocational Institution
MCSP -Mule Creek State Prison	Centinela State Prison
Calipatria State Prison	

CHERITA WOFFORD: cherita.wofford@cdcr.ca.gov; (916) 324-6123

California Substance Abuse Treatment Facility (SATF)	
Corcoran State Prison	DJJ Facilities
Salinas Valley State Prison	Correctional Training Facility

SONYA VALLE: sonya.valle@cdcr.ca.gov; (916) 327-8446

North Kern State Prison	Avenal State Prison
Wasco State Prison	Pleasant Valley State Prison
California State Prison, Solano	California Medical Facility
Kern Valley State Prison	

JEAN WEISS: jean.weiss@cdcr.ca.gov; (916) 324-5458

Pelican Bay State Prison	California State Prison, Sacramento
Folsom State Prison	California Men's Colony
San Quentin State Prison	Sierra Conservation Center
Ironwood State Prison	Chuckawalla Valley State Prison

### UPDATE—‘DOC’ MILLER RECOVERING

Here’s an update on the condition of Donald ‘Doc’ Miller, founder and former publisher of California Lifer Newsletter (CLN) and iconic champion of the lifer cause. Doc was severely injured in August in an auto accident near his home and suffered additional complications during treatment.

Doc has rebounded and was released last from medical treatment to continue his recovery and recuperation at home. After suffering cracked vertebrae and a post-operative stroke Doc is making good progress and back at work, although in a somewhat reduced schedule as he continues to recover.

While Life Support Alliance assumed publication of CLN in April of this year, Doc continues to work for lifers via Miller Consulting, his paralegal business, and Cash For Stamps (CFS). Those wishing to send their good wishes to Doc can do so by writing him at PO Box 87, Walnut, CA., 91788.

### OUR SERVICES

Life Support Alliance is a non-profit advocacy organization, working to promote the parole of life term prisoners. We are not a legal firm and cannot offer legal advice or representation. Similarly, we cannot, due to limited resources, provide in depth research on issues for individual inmates.

We do provide Lifer-Line, a free monthly newsletter, as well as “Working Toward Parole,” with suggestions on what families and inmates can do to better the prisoner’s chances for achieving parole. Also available on request is a list of attorneys specializing in lifer parole hearings and writs. We can also provide general information regarding legislative bills, CDCR policy changes and similar issues.

Life Support Alliance Education Fund, a sister organization of LSA, is a non-profit, tax exempt organization dedicated to helping lifers, their families and friends and the public understand the realities of a life term sentence. We publish California Lifer Newsletter, a bi-monthly subscription periodical which deals with legal cases affecting lifers and similar matters. Donations made to LSAEF are tax deductible.

We cannot provide copies of legal cases, legal paper, pen-pal services or packages. We do not buy or sell postage stamps. Readers’ questions on any issue are welcomed and we will reply to the best of our ability and resources. Our address: PO Box 277, Rancho Cordova, Ca. 95741/



LSA Director Gail Brown at recent LSA-sponsored IFC workshop (Photo courtesy Marge Driscoll)

### **CDCR: VISITING PROBLEMS NEED PATIENCE, COMMUNICATION**

Communication and patience were watchwords put forth by CDCR Associate Director Jay Virbel and Chief Ombudsman Sara Malone, when they spoke recently at an LSA-sponsored workshop for Inmate Family Council (IFC) members. Virbel, who oversees Female Offender Programs, out-of-state prisoners and visiting issues, said problems in visiting recently brought to his attention during a meeting with LSA were “an eye-opener” for many wardens.

Virbel reported he took the long list of LSA supplied visiting problems to a recent wardens’ meeting, telling those in attendance that even if they didn’t think these problems existed in their prisons, this was none the less the perception of the visitors and prisoners. In September LSA met with Virbel and supplied the Associate Director with a long list of visiting issues in each prison. The list was prepared from information sent to us by visitors and inmates, based on their experiences at their institutions.

Both Virbel and Chief Ombudsman Malone noted that change is always slow to happen (and never more slow than when dealing with CDCR) but that change is happening. Both asked for patience in solving visiting issues by pledged to foster better communication between visitors/IFC members and the department. Ombudsman Malone noted her office would like to receive meeting minutes from IFCs, MAC and WAC committees.

Malone also noted the department needed to work toward standardizing visiting policy and practices throughout the system but that since visiting is “a human business” it will always be subject to issues. Both department representatives also suggested those identifying problems endeavor to suggest answers to those problems as well.

LSA continues to encourage visitors and prisoners to apprise us of visiting problems and we will continue to follow up on these issues. We also encourage visitors to become members of local Inmate Family Councils. IFCs are an important way for family and friends to impact visiting and other family/prisoner issues at their prisons. Those prisons with active IFCs, MACs and WACs, please forward the minutes of your meetings to the Ombudsman’s Office, California Department of Corrections and Rehabilitation, Office of the Ombudsman, 1515 S Street, Room 311 South, Sacramento, CA 95811.