



BROWN UNVEILS 'UGLY' PLAN, VOWS TO FIGHT RELEASES

Just hours before a court-imposed deadline to lay out what further actions he plans to take to bring California's prison population to the level set by a 3 judge federal panel, Governor Jerry Brown offered up a brief, narrow smattering of actions that even his own administration characterized as "ugly." Newly-appointed CDCR Secretary Jeffrey Beard, who called the plan ugly, added the administration felt it had done all things reasonable to reduce the population, had made great progress and further actions to reduce the numbers more would "cause some problems. We don't think we should have to do that."

The Governor, under a threat of a Contempt of Court order if he failed to produce a plan to meet the population cap, crafted what might be called 'the least of the least' list of options, primarily relying not on reducing the number of California prisoners, but simply moving them from state-run prisons to private and/or out of state institutions. A few months ago state officials were looking at returning to California some of the several thousand state inmates now housed from Tennessee to Arizona. Now, CDC is in the midst of a renewed effort to identify and ship 'eligible' prisoners from the state's 33

prisons to an increasing number of private pens. Prisoners termed 'elderly' or medically incapacitated would theoretically be paroled at an accelerated rate.

The few other provisions offered up include increasing the number of inmates eligible for fire camps, leasing county jail beds for state prisoners and increasing good time credits for non-violent offenders. At the same time Brown has once again taken his fight with the federal judges to the US Supreme Court, where just two years ago his contention that the judges had overstepped their authority was rejected by the Supremes on a 5-4 vote. While the narrow victory in 2010 might signal Brown could find some favor with the high court for his latest plea many court observers believe the justices would be loath to take up the turf war again.

If all the recommendations in the plan Brown presented were enacted, and most would require approval by the legislature, an estimated 10,000 more inmates could be gone from state prison rolls by next year. Therein, however, may lie the first of many rubs. Legislators, starting with Senate Pro-Tem Darrell Steinberg have declined to take up the governor's proposals for consideration by the legislative body.

Steinberg instead said he supported Brown's plans to head to Washington again, saying the federal judges had "ignor[ed] the massive reform and reduction in prison population" the state has accomplished through realignment. The state would most likely present its case to the high court this summer with a ruling, if the court agrees to hear the case, sometime in the fall.

Until then the administration will continue to ship inmates out of state prisons and out of state entirely, fill fire camps with newly-eligible prisoners (a process not without controversy), push good time credit releases and maybe even parole a few aged and infirm inmates. But... There will be no wholesale release of prisoners. At least not yet.

THE SHORT VERSION OF TIME CREDIT PROPOSALS

Minus all the legal-ese and citations contained in the court documents containing Gov. Brown's proposed changes in the time credit system for inmates, here are the basics.

1. Inmates housed in minimum custody situations would earn "two for one" credits, as do those presently in fire camps. While this, by the state's estimation would only affect about 148 inmates by the end of the year, if the two-for-one were applied retroactively the state maintains it would impact another 89 prisoners for a total population reduction of 237 inmates. By contrast, prison expert Dr. James Austin, in a declaration late last year for inmate attorneys, estimated such credits, applied retroactively would affect some 4,000 inmates.
2. Application of "milestone completion" credits for violent, serious, and second strike inmates who are currently ineligible to receive them. The state says such change would impact if applied currently, with another 1,134 if applied retro actively, for a total of 1,260 prisoners.
3. Expand credit earning limits for violent and non-violent second-strikers, excluding sex offenders, from 20% to 34%. The state says this change would affect 66 inmates currently and 2,456 if applied retroactively. Austin, by contrast, estimated the retroactive application of this credit earning change would impact over 6,000 inmates with four months.

4. Expand credit-earning limits for violent, non-strike inmates, excluding sex-offenders from 15% to 34%. The state says this change could, if applied retroactively, affect nearly 1, 680 inmates; Austin's estimation of the retroactive impact of the credit increase was over 9,000 inmates.

Aside from the discrepancy in numbers the state is careful to list, under each proposal, the extra measures it has identified that would be necessary before any such changes could be implemented. These include issuing a field directive for each change, identifying eligible inmates, then reviewing their files and recalculating the credits applied. All this, says CDCR (via declarations in the court filing from several upper level bureaucrats) would take 5-6 months before the credits could be applied and the resulting population decrease, whether their numbers or Austin's, could be effectuated.

Oh, and one more little pesky detail. All such changes in credits must be approved by the state legislature and signed into law by the governor. And the legislature, in the person of Senate Pro-Tem Darrell Steinberg, has already expressed the body's intention to ignore the proposals.

So don't get out your calculators yet. The jury is still out.

WE'RE IN THE NEWS BUSINESS, NOT THE STAMP BUSINESS

Life Support Alliance, as publishers of California Lifer Newsletter (CLN), continue to receive bundles of stamps sent to our location with the expectation of a cash return. Please note: since LSA assumed publication of CLN more than a year ago we have been announcing we do not deal in stamps.

If you are seeking to redeem stamps for partial cash value address your envelope to **"Cash For Stamps,"** at: P. O. Box 687, Walnut, Ca. 91788. If you use "CLN" in the address it will be forwarded to us. We continue to accept stamps in payment for subscriptions, but only for subscriptions, at the rate of 6 books of Forever stamps for a one year subscription.

Heretofore we have been forwarding the stamps/cash communications to the Walnut location and notifying the sender of our actions. However, as of July 1st we will simply begin returning the stamps to the sender with a short explanation, as the problem is becoming burdensome and, after over a year, we hope our readers will have been paying attention.

Along the same line, we continue to receive subscription coupons from very old issues of CLN, often 3-4 years old, and payment for a year's subscription at the rates in place then. We will enter the subscription for the number of months covered by the funds sent but not for a full year. Please note, the annual subscription rate for CLN for prisoners is \$30. We do not provide copies of CLN on an issue by issue basis, as this is not possible using the bulk rate postage that allows us to continue to publish CLN.

If you have any questions on subscription rates, advertising rates, how to pay for a CLN subscription, please write to us at: P. O. Box 277 / Rancho Cordova, Ca. 95741. *Lifer-Line* remains a free publication, but does not contain the legal analysis and court case information included in CLN.



Paroled lifer, paralegal and CLN contributor John Dannenberg (center) and LSA Board member Vic Abrunzo (left) during the May, 2013 Lifer Family Seminar in Sacramento.

LSA's SECOND LIFER FAMILY SEMINAR HELD IN SACRAMENTO

On Saturday, May 18, LSA conducted an all-day seminar at the Sacramento Community Based Coalition (SCBC) reentry facility here in Sacramento to educate lifer families about parole readiness and parole success. More than 30 families in Sacramento and surrounding areas gave up a day of visiting with their lifer to come and learn how they can help their loved one become suitable for parole and build a strong and effective parole and relapse prevention plan.

During the course of a very full 8 hour day topics from self-help to psych evals to transitional housing were discussed and information provided. We walked the attendees through the mechanics of a parole hearing, discussed how to proceed in the absence of adequate self-help groups available to lifers and provided a meaty packet of written information, that included recommended self-help books and courses, tips on writing support letters and what affect the pending prison population cap might have on lifers.

Other topics were the FAD-fish or foul?, what exactly is 'insight' and the importance of family contact and unity, not only in becoming suitable but in success after release. Attendees heard from paroled lifers about the unexpected challenges faced after release and how to help overcome them and participated in a two hour question and answer session with one of the state's leading lifer attorneys. Saturday's "Doing Life as a Family" event was part of a series of such seminars LSA is holding throughout the state for lifer families, where we not only seek to educate but also engage in much learning ourselves. What we learned from this most recent meeting was that lifers are concerned about the dearth of self-help and therapy available, that finding transitional housing is a continuing challenge and that lifers, once granted a date, need some heads-up information and suggestions on the unforeseen obstacles they will face on coming home.

We are all aware of the challenges of housing and employment, but ex-lifers tell us of the embarrassment and frustration of trying to figure out new-fangled public restrooms where the faucets have no taps to turn water on and off, what to do halfway through a pedestrian crosswalk when the signal suddenly holds up a red hand indicating you should stop and the difficulties of finding the now nearly extinct pay phone if you can't afford a cell phone.

LSA believes these issues could and should be addressed during the obligatory 120-150 day waiting period between the granting of parole and actual release. Toward that end, we are formulating suggestions on how to provide this information to lifers while still in prison using volunteers or perhaps existing self-help groups. We anticipate submitting suggestions and comments to the Board of Parole Hearing's Rehabilitation Programs Advisory Committee in the very near future, in the hope that we might be able to find a way to facilitate this process.

PAROLE REVOCATION LAWS CHANGE AS REALIGNMENT ROLLS

Regardless of Governor Brown's fight with the 3 Judge Panel and possibly the US Supreme Court, Brown's signature legislation dealing with the prison situation, known not-so-fondly as realignment, continues to roll. One of the centerpieces of realignment is the shifting of responsibility for supervision and revocation of parole from the state to the counties.

To bring the law in line with the new reality the Board of Parole Hearings (BPH) at their May meeting began the process of scrapping and/or amending various Title 15 sections dealing with parole revocation. All changes will become effective July 1st, 2013, when, by laws put in place through realignment, revocation of parole hearings will shift to localities.

All changes were made in Title 15 Division 2 and include the elimination of Section 2710, 2711 and 2712 dealing with warrants of arrest. All three sections were scrapped in their entirety. Changes in language to section 2713 note that warrants issued by the BPH prior to July 1, 2013 will remain in effect until recalled. Additionally, "[A]ll instances of parolees arrested pursuant to a warrant issued by the board shall be reviewed by the board for discharge of parole prior to the Division of Adult Parole Operations filing a petition with the court to revoke parole. If the board discharges the subject of the warrant from parole, it shall recall the warrant."

A second change in this section notes, in the case of dealing with an absconder, "[in] the case of any absconder who has been at large for five years and who has met the minimum term considering time in prison, on parole, and at large. The board may determine to discharge the absconder. If the board discharges the subject of the warrant from parole, it shall recall the warrant."

In short, if the board chooses to, it can discharge from parole an individual picked up either as a result of an existing warrant or an absconder who has been at large for 5 years, rather than revoke parole. In a similar change to Section 2714, most of the old language was eliminated, to be replaced by 2 new sections, one noting, "Execution of Warrant When the Parolee has absconded. When a parolee is arrested outside of California pursuant to a warrant issued by the board, the matter shall be reviewed by the board for discharge of parole. The board's review shall include consideration of whether there are specific circumstances and substantial reasons that indicate a return would not be in the interests of justice. If the board does not discharge parole, the parolee shall be extradited pursuant to the warrant."

The second newly minted section relates to purging of a warrant; "Purging Warrants. If a warrant issued by the board has not been executed five years after entering it in the National Crime Information Center (NCIC), the board shall review the case. If no other jurisdictions have issued warrants since the board issued it's warrant, the board shall remove the warrant from the NCIC, unless reasons are stated for retaining the warrant."

Short report, the Board may now, after a review of a case 5 year old, with an unexecuted warrant, remove the stale, unserved warrant from inclusion in the national data base.

DEATH PENALTY TAKES ANOTHER BLOW

In a recently published opinion California's First Appellate District Court has upheld a lower court decision finding the CDCR "substantially failed to comply" with mandatory procedural requirements of California's Administrative Procedures' Act (APA) in laying out the manner in which a death sentence would be carried out. In December, 2006 a California Superior court found the standards set for lethal injections, one of two available methods of administering the death sentence contained in the Departmental Operational Procedure, violated the cruel and unusual punishment ban in the US Constitution.

The department later revised the procedures in yet another Operational Policy (OP) Directive in May, 2007. Shortly after that condemned inmates filed a legal challenge (*Sims et al v CDCR et al*), saying any such changes must be adopted through the regulatory approval process prescribed by the APA, rather than as an agency operational procedure and labeling the new OP an 'underground regulation.' After some legal foot dragging CDCR eventually began the process of submitting the proposed changes to the Office of Administrative Law (OAL) in line with APA procedures.

After the first unsuccessful attempt by the department to promulgate the new regs they were finally approved by the OAL in July 2010. A scant 3 days later Sims filed his suit which in simple terms alleged one drug of the three-drug cocktail used to cause death could cause unnecessary pain and suffering to the condemned inmate and that the process followed by the CDCR in securing OAL approval was not valid. In the course of further court proceeding CDCR admitted it did not comply with many APA requirements, including falsely representing that it had relied on certain reports, failing to make the complete rulemaking file available to the public for inspection within appropriate time lines, failing to identify the latest version of OP 770 as the primary basis of the proposed lethal injection protocol; failing to summarize and respond to about two dozen written comments specifically directed and including irrelevant information in the rulemaking file made available to the public.

Indeed, it appeared the only the only thing the department did right was spelling and addressing the report to the proper agency. The courts found CDCR failed in all areas to follow APA guidelines, including provisions that call for adequate consideration and response to those objecting to the new procedures. And part of that adequate consideration the court held that due to CDCR's failure to evaluate and respond to ALL the objections filed (almost 30,000) it had not complied.

In summation the court's unanimous finding, authored by Justice P.J. Kline, "declares that the CDCR's lethal injection protocol (Cal. Code Regs., tit. 15, §§ 3349-3349.4.6) is invalid for substantial failure to comply with the requirements of the APA, and permanently enjoins the CDCR from carrying

out the execution of any condemned inmate by lethal injection unless and until new regulations governing lethal injection execution are promulgated in compliance with the APA.”

TWO YEARS LATER, PB INMATE GETS HIS WEREWOLF FANTASY

It took Pelican Bay inmate Andres Martinez more than two years, but it appears he will finally be able to read the werewolf fantasy novel “The Silver Crown” at last. Martinez recently was successful in his habeas challenge to Pelican Bay’s finding that the book was “erotica,” “obscene” and could incite prison violence, all good reasons, said the guards at PBSP (they read?) to confiscate the book.

Without doing a book report, suffice to say the plot of “The Silver Crown” revolves around the unending love of a werewolf hunter for her former flame, now-turned werewolf, and the drama that ensues when he reappears (as a werewolf) after she has married another werewolf hunter. The cast of characters also includes witches, a pack of recently-turned werewolves and the ghost of the heroine’s werewolf-killed brother. Clearly, fantasy.

Admittedly the book contains, according to the court ruling, “sexual encounters, one per chapter through most of the book, including detailed descriptions of intercourse, sodomy, oral-genital contact, oral-anal contact, voyeurism, exhibitionism, and ménage à trois. Semen is mentioned. Crude slang is used to describe various body parts and the sex act itself. On the other hand, the sex appears to be between consenting adults. No minors are involved. No bestiality is portrayed (unless werewolves count). And there is no sadomasochism.” All of which led PBSP to declare the book contraband. However, the court found the prison did not adequately consider whether or not the book had serious literary value, relying instead on an “I know pornography when I see it” standard. After apparently actually reading the book (something no one at Pelican seems to have done) and other examples of literature available to SHU inmates, the judges unanimous opinion was “the prison authorities misapplied section 3006, subdivision (c)(1)” when withholding the book from Martinez.

Martinez’ dogged (no pun intended) pursuit of his rights included, as the court noted, a hand-written excerpt from another book available to Pelican inmates which he maintained and the court agreed, was more violent than “The Silver Crown.” Contrast the court-noted careful preparation and research of Martinez’ pleadings with those offered up by the Attorney General’s office, which relied on a guard’s description of his process to evaluate a book as “My process is to thumb through pages of the book to read various excerpts and if I continue to come across sexually explicit depictions or descriptions that intend to appeal to the prurient interest of the reader, that book as a whole would meet the criteria of obscene contraband.” This description hardly reassures us that he or other prison officials consider the literary value of the work as a whole,” said the court.

“The Warden of Pelican Bay State Prison is ordered to allow petitioner to receive, possess, and read his copy of The Silver Crown. We currently have possession of the book as an exhibit to the petition. The clerk of this court shall deliver the book to the Deputy Attorney General, who shall oversee its delivery to petitioner,” said the court. “We feel certain the book should be protected by the First Amendment in ordinary commerce, and our analysis of Penal Code section 2601 concludes it is therefore allowable reading for inmates.” However, given the explicit descriptions contained in the judicial document, it begs the question if Martinez will be allowed to have a copy of his own successful filing.

PHOTOS FROM LSA'S "DOING LIFE AS A FAMILY" SEMINAR



Michael Beckman on parole readiness



LSA Co-Director Gail Brown

Thanks to Sacramento Community Based Coalition (SCBC) reentry program for providing the venue for our second successful seminar to educate lifer families on parole, prison, how they can help their lifer and become a successful advocate. And thanks to our presenters, Attorney Michael Beckman, LSA Board Member Vic Abrunzo, and former lifers John Dannenberg (see picture/story on page 4) and David Sloane.



Recently paroled lifer David Sloane talks about the challenges of re entry

Another seminar is in the planning stages for October in the Bay Area. Stay tuned for details.

The Board of Parole Hearings has compiled the following list of transitional housing units. Lifers preparing parole plans are urged to contact these facilities and ascertain which will meet their specific needs. The list will be updated quarterly. Lifer-Line will re-print as needed.

Board of Parole Hearings
Commissioner Pre-Parole Residential Sample Listing

Facility ¹	County	Address ²	Cost	Length of Stay
Amity Foundation	Los Angeles	3750 South Grand Avenue Los Angeles, CA 90007	SASCA	6m to 12m
Amity Vista	San Diego	2260 Watson Way Vista, CA 92083	SASCA	6m to 12m
Beit T'Shuvah	Los Angeles	8831 Venica Blvd. Los Angeles, CA 90034	No Cost	6m to 9m
The Bible Tabernacle	Los Angeles	16301 W. Sierra Highway Canyon Country, CA 91351	No Cost	6m to 12m
Cache Creek Lodge	Yolo	435 Aspen Street Woodland, CA 95695	SASCA	Min 6m; Preferred 12m
CADS Fleming (Support Systems Home)	Santa Clara	1281 Fleming Avenue San Jose, CA 95127	SASCA	6m to 12m
Clare Foundation	Los Angeles	1871 9th Street Santa Monica, CA 90404	SASCA	6m to 12m
Crossroads, Inc.	Los Angeles	1269 North Harvard Ave. Claremont, CA 91711	No Cost	6m
Delancy Street Foundation	San Francisco Los Angeles	Will not interview unless on parole	No Cost	2 yrs
Francisco Home	Los Angeles	5 transitional homes in various locations	SASCA	6m to 12m
Fred Brown Recovery Services	Los Angeles	270 West 14th Street San Pedro, CA 90731	SASCA	6m

1 Updates, additions, and/or changes will be made at the request of the residential facility/treatment center.

2 All residential resources offer drug and/or alcohol addiction counseling services

Fresno First	Fresno	2550 West Clinton Avenue Fresno, CA 93705	Varies	6m
Fresno Rescue Mission Academy	Fresno	310 G Street Fresno, CA 93716	No Cost	18m
Gibson House (VARP Inc.)	San Bernardino	1100 North D Street San Bernardino, CA 92410	SASCA	6m
Health Right 360 (Walden House)	Los Angeles	2307 W. 6th Street Los Angeles, CA 90057	No Cost	6m to 12m
Men of Valor	Alameda	6118 International Blvd. Oakland, CA 94621	\$310/m	6m;12m Preferred
Modesto Gospel Mission	Stanislaus	1400 Yosemite Blvd. Modesto, CA 95354	No Cost	13m
New Way of Life	Los Angeles	852 East 91st Street Los Angeles, CA 90002	\$500/m	6 Months to 1 Year
New Wine Church	Orange	1425 S. Brookhurst Fullerton, CA 92856	No Cost	12m
Options Recovery Services	Alameda	1931 Center Street Berkeley, CA 94704	\$350/m	12m
Phoenix House	Los Angeles	503 Oceanfront Walk Venice, CA 90291	SASCA	6m to 12m
Ranch Recovery Center	Riverside	7885 Annadale Ave. Desert Hot Springs, CA 92240	SASCA	6m
The Recovery Center (Wings Sober Living)	Orange	1110 Victoria Street Costa Mesa, CA 92627	SASCA	6m
Re-Entry Inc.	Sacramento	3600 Turner Drive North Highlands, CA 95660	\$400/m	6m +
Restoration House	Sacramento	4141 Soledad Avenue Sacramento, CA 95820	\$450/m Rent \$150/m Food	Up to 18m
Swords to Plowshares	San Francisco	1433 Halibut Court San Francisco, CA 94103		
Serenity Castle Ranch	San Bernardino	18654 Cajon Blvd. San Bernardino, CA 92407	\$450/m	6m

Crossroad is a female facility; Francisco Homes operated by the L.A. County Catholic Archdiocese (need not be Catholic for acceptance); Delancey Street operates an L.A. County facility also.