



## **CCPOA WEEKLY UPDATE — FEBRUARY 10, 2012**

### **DJJ Update — By Daryl Lee, DJJ VP**

All of our hard work — and I'm of course including all of you in this — is finally starting to pay off. First, we've successfully saved one of those three DJJ board coordinating parole agent positions from layoff by finding them to a position in DAPO. Second, we've heard a number of legislators share our concern about the proposed DJJ closure during our ongoing meetings at the Capitol. Policymakers appear to be looking for an alternative, and fortunately, that's exactly what we're preparing to give them. Next week's Juvenile Justice Summit will be the next big step in this process, bringing stakeholders together to hopefully unite behind a comprehensive plan for safe, effective and cost-effective juvenile justice reform — an approach that recognizes the unique roles of both DJJ and county facilities. The summit will take place on February 15 and 16 in Sacramento — we'll be sure to provide you with an update of this important event.

In addition, we've met with the Department of Finance on the Governor's DJJ proposal, and have also been involved in a transportation table. Things are moving pretty fast, but we're committed to keeping you informed!

### **Supervisory Update — By Kevin Raymond, Supervisory VP**

First and foremost, we've been seeking a date for the SO6 layoff table to discuss mitigation of the myriad issues surrounding corrections layoffs. Our goal is to secure a date next week, so we hope to have an update very soon.

We've also been working to resolve an issue at Chuckawalla where supervisors are being demoted and transferred — this despite the fact that, according to reports, the institution still has limited term and acting supervisors. We then received an email from CDCR Labor Relations saying that this county has been taken off the impact list as far as Sergeants go, so we're seeking clarification.

And finally, last weekend we received a county-by-county listing of all limited term supervisors — about 260 in all. More information to come.

### **Legislative Update — By Stephen Walker, Chief of Legislative Affairs**

For those of you who hadn't yet noticed, 2012 is an election year. And we'll be voting for more than a new president — we'll also be casting our ballots for local offices, as well as State Assembly and Senate candidates. As in past years, CCPOA will be launching a voter registration drive among our membership to ensure that you are eligible to exercise your right to vote in both the June and November elections. Remember, if you have done any of the following since the last election, you will need to re-register to vote — moved to a new address, changed your political party choice, changed your last name (i.e., gotten married). Watch [www.ccpoa.org](http://www.ccpoa.org) for our voter registration efforts — coming soon!

Speaking of elections, this weekend is the California Democratic Party Convention, and I'll be attending on behalf of CCPOA (as I do the Republican Party Convention, as well). These conventions not only provide us valuable insight into the elections ahead, but also provide us the opportunity to meet potential candidates and discuss important issues with legislative leadership outside of the State Capitol.

We also continued discussions this week on the concept of re-entry centers and correctional officer training. More to come on that as these conversations progress.

### **Labor Update — By Steve Weiss, Chief of Labor**

The biggest news this week is on AB 109 Reductions. As you know, CCPOA and the State have been in serious negotiations regarding the impact of AB 109 Reductions. By agreeing to the first Wave of four Opportunities, we were able to reduce the number of potential layoffs to 250. Now we've successfully negotiated one final opportunity available to those 250 staff to retain employment. **If all identified staff take advantage of this final opportunity, NO BU6 EMPLOYEE WILL BE LAID OFF.** (Click here for full AB 109 Negotiations Update.)

Meet-and-confers also kept us very busy over the last week or so. We reached agreement on two of them — the VSPW Reception Center conversion and establishment of the new sexual behavior treatment program at O.H. Close. And we started opening dialogue on another two — the VSPW SHU conversion to GP, and the DJJ transportation hubs, where the authority for the northern hub would transfer to Chad and authority for the southern hub would transfer to Ventura. We have new dates scheduled to continue discussion on both of these.

We didn't have as much luck with the next three meet-and-confers. We argued over policy and procedures regarding the CIW 45-bed PIP, but have scheduled new dates to hopefully continue in a more productive manner. And the state showed up totally unprepared for our meetings on both the Tehachapi Reception Center Conversion and the Deactivation of Camp positions. The State's team had no documents, no policies and no post orders. Obviously, nothing was accomplished — except wasting a lot of taxpayer dollars. Both meetings have been rescheduled, and we certainly hope the State does its homework next time.

We also attended the Quarterly State Transportation meeting for adult institutions, where we worked to reach an equitable workload for these hardworking cops. And finally, we helped Calipatria celebrate its 20<sup>th</sup> Anniversary, where they hosted an open house and held tours. Congrats Calipat!

**Legal Update — By Chief Counsel Dan Lindsay / Supervising Attorneys**

**Shelley Lytle, Rudy Jansen, Janice Shaw**

Two updates for this week — one on the McGowen case and one on Newton (furloughs). In follow up to our report from a few weeks ago, a new trial judge has been appointed in the McGowan case — U.S. District Court Judge Margaret Morrow has been assigned to hear Rob's bail motion. The matter, which Rob's attorney's requested be heard on February 6, 2012, was continued by request of the Court to give them more time to prepare for the hearing. We will let you know when the hearing is rescheduled.

NEWTON v. BROWN FLSA CASE

The Newton v. Brown FLSA 9<sup>th</sup> Circuit appeal was dismissed on February 1, 2012, via Joint stipulation of the parties.

This case was filed in 2009, seeking declaratory relief finding that California's "self-directed" furlough program violated the Fair Labor Standards Act (FLSA) by not first paying COs all the straight time wages that they earned in a work period prior to paying them overtime wages earned.

Cross-motions for Summary Judgment were heard by U.S. District Court Judge Vaughn Walker in January 2011. Judge Walker ruled against Newton and the consenters (Newton). The Court followed the October 2010, holding of the California Supreme Court holding in *Professional Engineers in California Government v. Schwarzenegger*, 50 Cal. 4<sup>th</sup> 989, which California's Legislature authorized the 2009 furlough program created via Executive Order by then Governor Schwarzenegger.

In February 2011, Newton filed Motions to Alter or Amend Judgment, and for Relief from Judgment with the District Court. On May 25, 2011, Judge Phyllis Hamilton, who was assigned due to J. Walker's retirement, denied the motions. She relied on *Professional Engineers* and the May 16, 2011, California Appellate Court decision in *Union of American Physicians and Dentists v. Brown*, holding (1) that the consenter's did not meet their burden of showing that J. Walker's ruling was clearly erroneous and (2) that the third furlough day was lawful given that the language in the 2010 Budget Act was identical to that in the 2009 Budget Act construed in *Professional Engineers*. Newton timely appealed to the 9<sup>th</sup> Circuit.

The parties stipulated that the "appeal should be dismissed because the case is moot after the California Legislature ratified a collective bargaining agreement terminating the furloughs as to Appellants [Newton and the consenters] May 19, 2011."