

California Correctional Supervisors Organization, Inc.

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WEEKLY UPDATE

To: Chapter Presidents, PAC, Recruiters
From: Pat Le Sage, Chief Operations & Financial Officer
Date: October 8, 2004

CCSO representatives met with CDC Regional Susan Hubbard, DPA Representative Tim Virga, and CDC Labor Relations Randy Fisher, this Tuesday, over the supervisory post and bid. Problems at HDSP and CSP SAC were discussed. PBSP and their 7 investigative exempt lieutenant positions, along with the large number of stress area positions were reviewed. Discussion revolving around a 607 at Calipatria where two sergeant positions were deleted with the creation of two officer positions being established without a meet and confer was brought to the attention of the attendees. Administrative Field Service Representative Ford Canutt brought up the problem of rank and file representatives negotiating supervisory post and bid at a few facilities. The majority of facilities are coming to agreements; however, some wardens are taking such hard lines that this supervisory post and bid would not be a benefit. Discussion on the part of CDC reflected that the above noted facilities will be contacted to better accommodate supervisors. Let's see what happens. Implementation will vary from facility to facility, but it appears VSPW will be the first facility to implement the new supervisory post and bid. I asked when implementation at all the facilities will be implemented, and Tim Virga of DPA stated the latest ones will probably be November – December 2004. CDC is pushing to expedite implementation. Once implementation occurs at your facility, the time lines will be enforced. If there are errors, you must file a complaint to your Personnel Assignment Lieutenant. Supervisors will have 14 days of the posting of the seniority roster for a second level review submitted to the appointing authority. We ask that you also contact both the CCSO local Chapter President and our main office at 1-800-449-2940. Administrative Field Service Representative Ford Canutt and State Representative Robert Papac are meeting with local chapters and their administration. Some facilities are having problems, and we are working to resolve these problems. The main area of concern appears to be the exempt and RDO positions. If your facility is having problems, we need to hear from you.

The new disciplinary matrix has come out for CDC and CYA. CCSO will review it and post it on our website.

CCSO Attorney Gary Goyette has been assigned the task of researching the impact of the new federal overtime regulations on excluded CDC employees. His first step was to write a letter to DPA Director Navarro for DPA's interpretation and intended application of the specific section of the new FLSA regulations to CDC employees. An excerpt taken from Attorney Goyette's letter cites:

“Based on this new regulation, CDC should be treating all parole officers, including Parole Agent Ills, as non-exempt and eligible for overtime pay for all hours worked in excess of forty (40) hours per week. More generally, based on the new regulation CDC should be defining each and every

excluded employee not covered by the Unit 6 Memorandum of Understanding (MOU) as non-exempt and eligible for overtime for any work performed in excess of forty (40) hours per week. This is so since the new regulation defines all Correctional Officers, *regardless of rank*, as non-exempt. The new regulation sets forth this definition of non-exempt employees such that the detailed tests to determine if an employee falls under the executive, administrative, or professional exemptions, which follow in later sections of the regulations, simply do not apply. CDC simply should have no choice as to how each and every rank within the corrections system is categorized regarding overtime pay; each and every rank is defined as non-exempt by the new federal regulations interpreting the FLSA statute. 29 CFR § 541.3(b)(1).

Please respond to me in writing at your earliest convenience to answer the two questions I pose in this letter: first, will CDC be treating Parole Agent III's as non-exempt and eligible for overtime; and second will CDC be treating each and every rank of employee within the corrections system as non-exempt and eligible for overtime, pursuant to the new regulations interpreting the FLSA? I look forward to your response and thank you in advance for your anticipated cooperation."

CCSO finds this new FLSA regulation most beneficial to correctional supervisors and we will pursue its enactment within corrections.

"LA Times - The family of an inmate who died of complications from a pulled wisdom tooth has filed a wrongful-death suit that names Governor Arnold Schwarzenegger and two top prison officials as the defendants. He died June 28, six days after he had a wisdom tooth removed while imprisoned at California State Prison, Solano, in Vacaville. Besides the Governor, the lawsuit names Department of Corrections Director Jeanne Woodford and Solano Prison Warden Thomas L. Carey as defendants. According to the lawsuit, an infection and abscess ravaged Shumake's mouth after the tooth extraction, ultimately causing his neck to swell and making it more difficult for him to either swallow or breathe. The suit charges that in spite of his worsening condition, Shumake for days had 'no luck obtaining help from the prison staff.' Finally, prison officials rushed him by ambulance to an outside hospital - 76 miles away in Manteca, in San Joaquin County, the suit said, instead of a treatment facility in the Vacaville area. Shumake died of respiratory arrest in the emergency room of the Manteca hospital, according to the suit. The San Joaquin County Coroner's Office ruled the death 'accidental due to complications of therapy' related to the tooth extraction. The coroner's report added that Shumake also had underlying heart problems. A stipulated injunction that was reached in an inmates' rights suit in San Francisco already is requiring the Department of Corrections to improve its \$1 billion health care delivery system at all of its 32 prisons by the end of 2008. The Youth and Adult Correctional Agency has begun conducting competency evaluation on its 300 + doctors, as ordered by U.S. District Court Judge Thelton Henderson in San Francisco."

"Sacramento Bee – Almost 20,000 California prison inmates are enrolled in a new education program mired in staffing shortages, labor disputes and the logistics of giving convicts one-to-one instruction. Launched in November to save money, Bridging Education – resembling a series of correspondence courses – has so far cost the state more than it has saved. Teachers deliver the lessons at cell doors and in dormitories. But so many teaching jobs are unfilled that some instructors struggle to spend even half an hour a week with each of the 100 or more prisoners to whom they are assigned. And some inmates can go weeks without seeing a teacher. California has the nation's highest rate of repeat offenders, a problem that has contributed to prison overcrowding and ballooned the Department of Corrections budget to \$6 billion. The Bridging Education program is a key piece of the Schwarzenegger administration's efforts to save money by slashing the number of ex-convicts returning to prison. Corrections officials are struggling to establish a program they say has enormous challenges and great promise. They are banking on

Bridging Education to save more that \$70 million a year and are hoping the program, despite start-up problems, will help restore the state's reputation for rehabilitation. 'It is a beginning,' said Corrections Director Jeanne Woodford, appointed in mid-February. 'Can you do self-study? Absolutely. Ideally, we would like to have a TV in every cell and be able to provide education over the TV. But we don't have those dollars now.' ”

Next week, I will be down south attending the CCSO Southern Chapter Workshop. Therefore, there will be no weekly update until the following Friday, October 22nd.

The CCSO office will be closed October 11th in observance of Columbus Day.

Welcome to the new members who joined CCSO this week.

Thought for the week: “It is much easier to be critical than to be correct.” ~ Benjamin Dieraeli