

Minutes of Mediation Team Meeting with CDCR  
February 20, 2015

Present:

CDCR: Kelly Harrington, Director of Adult Institutions (Acting)  
Ralph Diaz, Deputy Director for High Security Institutions (Acting)  
Katherine Tebrock, Chief Deputy General Counsel  
Xavier Cano, Assistant to Mr. Harrington  
Jean Weiss, Ombudsman office (representing Sarah Malone)  
Clint Donaldson, Office of Inspector General

Mediation Team:

Ronald Ahnen, California Prison Focus (CPF)  
Dolores Canales, Family Unity Network  
Irene Huerta, California Families Against Solitary Confinement (CFASC)  
Laura Magnani, American Friends Service Committee (AFSC)

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**DRB Reviews**

Harrington reported that they are committed to getting the case by case reviews done as soon as possible. They plan to continue the course set out in 2012 by Mike Stainer, noting his retirement will have no impact on that course. Two teams are in place led by Susan Hubbard and George Giurbino respectively. In addition, two other teams are currently being trained and will be led by Wasco Warden Katavich and CCWF Warden Johnson. When these additional teams get in place, the rate of the reviews is expected to increase. They will be working at Tehachapi and Corcoran. Their goal is to finish all initial DRBs by December 2015.

To date, they have completed 1,070 reviews and estimate that they have about 1600 more cases to review. Of these, 294 men have been placed in steps 1 to 4. The rest are in step five. [Note: Generally speaking Step 5 is placement in general population, but there are also an unknown number of individuals who qualify and officially are in step 5 but have been retained in SHU due to security concerns]. The numbers for each step is as follows:

Step 1: 116  
Step 2: 81  
Step 3: 55  
Step 4: 42

In addition, some men have been moved forward steps. So far the numbers are as follows:

Step 1 → 2: 59  
Step 2 → 3: 45  
Step 3 → 4: 55  
Step 4 → 5: 7

The Mediation Team expressed concern about the men who qualify for Step 5 but are being retained in SHU due to Security Concerns. We noted that in some cases, suddenly men who had no security concerns previously are being written up for security concerns. We believe this “loophole” will be abused against specific men as a form of retaliation. Harrington noted that they must take security of

the men into account, even if the person feels that he is under no threat.

ICC will review those men who are retained to see if the security concern can get “cleared up” so that they would be released to General Population.

The numbers in the SHU have not been reduced due to the large backlog in the Ad Segs. Due to the hundreds of men who have been shifted out of SHU, one Ad Seg unit has been shut down (Ironwood) and another one is about to be shut down (Avenal).

### **Slow transfers**

As far as transferring from the SHU, they realize at the moment that there are problems with keeping up with transfers to different Step yards or to GP. Part of the problem, they report, is the installation of a new software program that is slowing the transfers down.

### **Step privileges**

They noted that the men start to begin to receive the privileges of the new step they have acquired even before they are moved if possible. This generally includes such things as expanded canteen and phone calls. However, steps that provide for more direct interaction with others and other privileges may not be possible at some institutions. Harrington confirmed that the time that one spends in a particular step begins when the step change has been approved and is independent from the date of housing transfer.

### **STG I vs. II and members vs. associates**

STG I groups continue to be the original seven prison gangs and there is a protocol to have those changed. One STG I is currently under review for de-certification (later revealed as BGF). STG IIs are in the thousands as these include any type of street or neighborhood gang that could crop up at any time. The Office of Correctional Safety (OCS) would be better able to answer questions specifically on how STGs are certified and how they make decisions about who is a member and who is an associate. Harrington said that generally speaking, men are validated as associates and then, when they are in the SHU, they rise to the level of members. STG behavior must be specific gang related behavior and not just symbols, letters, tattoos, etc. The Mediation Team complained that we are still hearing/know of validations based on such evidence.

### **Role of IGI**

Harrington noted that where practice does not appear to follow policy, the new process of appeals and the new roles should help to overcome errors. He noted that IGI's findings were previously pretty much the last word since OCS did not question these findings and went with the IGI finding. Today in the DRB reviews, however, the warden or the Director's substitute (Hubbard or Giurbino) can and have made decisions contrary to IGI recommendations. Jean Weiss noted that she has been in meetings where she has seen wardens overrule IGI.

### **Lack of Programming**

The Mediation Team expressed concern about the lack of programming in the Steps, especially as particular programs offered by outside groups have not been put in place. With respect to programming, they were using retired annuitants to run these programs, but they have now recently hired regular, full time employees in the last few weeks. They are currently being trained and thus programming should expand in the near future.

The Mediation Team shared our concern about the lack of programming generally in the design of the Step Down program. Mr. Diaz noted that Step 3 is limited, but men do start reintegrative activities from the outset of Step 4. These include unrestrained movement of 14-15 inmates from different STGs.

He noted that we seem to be going back to the 1990s in that regard, but now for different reasons. Part of the difficulty to achieving interaction is building design. They ordered windows which are now being installed that will allow oversight over dayroom activities. In addition, interactive programming rotates different inmates.

The Mediation Team again pushed to include interactive activities in Step 3 instead of waiting to Step 4. Mr. Harrington noted that they barely have the Step Down program all rolled out, so they want to wait and see how things go with the present model before reconsidering Step 3.

The Mediation Team noted while the administration in Sacramento is supportive of the new policy, the guards and other staff at the prison and floor level are often not supportive and do not implement the programming as planned. Mr. Harrington noted that what is at stake is a change of culture and that is difficult to manage. He said he beats the drum of the new message to the people below him, and they, in turn, to the Wardens, who in turn should oversee their staff.

The Mediation Team also asked about the Agreement to End Hostilities. CPF will publish the AEH in their newsletter indefinitely. We asked if any inmate could get in trouble for promoting peace among racial or geographical groups. Mr. Harrington said no, but the Mediation Team pointed to at least one case where a person promoting the agreement had that fact used against them in a disciplinary fashion. Mr. Harrington noted that it has always been CDCR policy to have everyone programming and no hostilities among prisoners or prison groups, and that there is no reason for CDCR to promote this particular agreement.

The Mediation Team asked for quarterly meetings, but Mr. Harrington was not willing to set a date. We expressed our satisfaction with the meetings and the fact that the men welcome any avenue by which the administration hears and addresses their concerns. They noted that the periodical meetings between the Warden and the reps at Pelican Bay continue. They also seemed satisfied with the meeting with us, but weren't willing to commit to a regular time frame.