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Keynotes

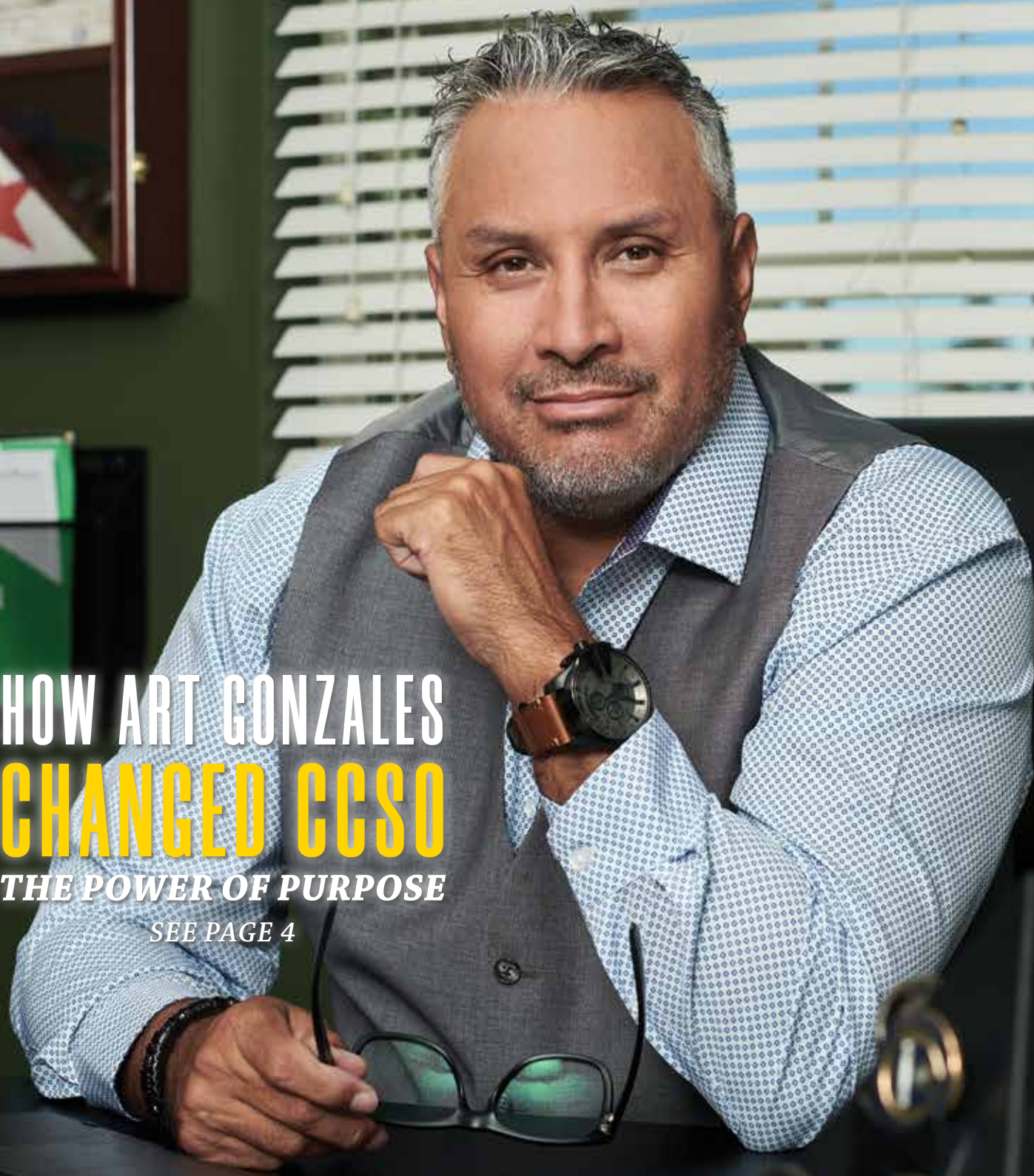
CALIFORNIA CORRECTIONAL SUPERVISORS ORGANIZATION



HOW ART GONZALES CHANGED CCSO

THE POWER OF PURPOSE

SEE PAGE 4





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ART GONZALES
CCSO State President

Before I took over as the CCSO state president, I knew that I needed a well-thought-out plan to improve our organization. My ideas and visions had to come with achievable objectives and an appealing end goal so that I could inspire others to make changes along with me. Change is often difficult, and people resist it due to fear of the unknown. Many of us are comfortable with the same process day in and day out, especially in our line of work. I centered my leadership style around change. I knew there would be challenges, but in order for our organization to flourish we had to make some changes, starting with our operations and business practices.

My goal wasn't necessarily to fix everything that wasn't working, but rather to amplify those things

THE POWER OF PURPOSE

that did work and spread out the workload. Giving people new roles and responsibilities brought a sense of ownership and pride to the organization. I also sought out individuals I had met throughout my career with CDCR who I knew would make a significant impact on our organization. My first step was to communicate my ideas and vision in order to convince people both inside and outside our organization that my plan would be successful.

The power of purpose is to put the right people in the right spots to do the best job they can. Empowering individuals builds confidence and reinforces your organization's vision.

The concept of "the power of purpose" is not new. It is used by many companies and organizations throughout the world. The power of purpose is to put the right people in the right spots to do the best job they can. Empowering individuals builds confidence and reinforces your organization's vision. Giving people power shows you have faith in them, as well as encouraging independence.

When people are given positive reinforcement and feel that what they do has meaning, they start to care more, which is then reflected in their work. Similar to coaching a sport, you must put the right players in the best position for their skill set in order to win the game. Not everyone is equipped to play each position or complete certain tasks, but your goal is to put the best team together. By identifying strengths and weaknesses and strategically placing your team, your rate of success will improve exponentially.

The key to success is creating positive relationships with your staff and colleagues. Take the time to find out their interests, skill sets and passions. Building trust boosts success, and trust is built by listening, observing and understanding each person. Let everyone provide input and you'll be surprised by the results. By no means am I smarter than everyone in the room, but by soliciting ideas and input, I receive different points of view and enhance my knowledge of various topics. I genuinely listen to each person, and by doing so I am gaining information that I previously did not have and building trust with my team. As a leader, you should not be selfish and keep everything to yourself in fear that someone will take over. Not allowing others to help is a detriment.

Great leaders inspire and motivate; they give people a sense of purpose and belonging. Over the past three years,

I have endeavored to be a strong leader for CCSO, and I hope that I have created an atmosphere where you feel proud to be a part of our great organization. I have empowered the organization with skilled assets and subject-matter experts (SMEs) to help our members. I

brought on consultants with an array of CDCR knowledge and experience. We have SMEs with backgrounds in personnel, executive management, health care, writing and editing, and social media/web design. I made State Board appointments to include a more diverse and dynamic group that truly represents our membership. I hired a general counsel for legal expertise, a labor manager, a grievance manager and a legislative specialist. The old saying “It takes a village” is true. You will be much more successful if you surround yourself with people who not only share your vision, but also strengthen your organization by providing certain proficiencies that you may lack.

I didn’t create the labor union concept, nor did I establish CCSO. What I have done is change many things: how we do business, how we strategize, how we negotiate and how we work with various CDCR divisions. Instead of getting upset about a policy change, we follow up with phone calls and emails asking for clarification.



I truly believe in our mission. There is always room for improvement, and I hope I’ve been able to show you the positives of change.

We currently have a very amicable working relationship with CDCR’s Office of Labor Relations, and we are now informed of upcoming policies and procedures and are invited to the table before the notice even goes out. When you call our office and get a response quickly, that goes to show that working together helps to achieve the goals for both sides, and most importantly, for our members.

On my campaign to be your state president, I made it a point to travel throughout the state and meet all of the chapter presidents. I wanted to share my plans of change for CCSO, as well as giving my full commitment to the organization. I knew that before I took over I needed to find a core set of people who shared my vision. When I eventually took office as CCSO state president, I got to work putting my plans and strategies in motion to enhance CCSO. I’ve proudly been a part of CCSO for 17 years, and I truly believe in our mission. There is always room for improvement, and I hope I’ve been able to show you the positives of change.

At the end of the day, we all want to be part of something meaningful. CCSO has great challenges and great opportunities ahead of us, and with your help, we will succeed. I want each and every one of you to know you are part of CCSO’s prosperity. Let’s keep on thriving! 🗝️

SAVE THE DATE!

CCSO ANNUAL GOLF TOURNAMENT

Proceeds to benefit CCSO College Scholarship Program/Fallen Peace Officers

FRIDAY, SEPTEMBER 10, 2021

LINCOLN HILLS GOLF CLUB

1005 Sun City Lane ~ Lincoln, CA 95648

0730–0830 Check-in

0930 Shotgun Start

Format: Four-person scramble (best ball)

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- Prizes awarded for closest to the pin and the long drive (man & woman)
- 50/50 closest to the hole
- 36-inch Blackstone grill hole-in-one hole
- 75-inch TV hole-in-one hole

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Rudy Marquez

(209) 838-2940 214 or cell (209) 604-6391

r.marquez@ccsonet.org



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The California Correctional Supervisors Foundation (CCSF)



The California Correctional Supervisors Foundation (CCSF) was created by the California Correctional Supervisors Organization (CCSO) as a 501(c)(3) self-funded statewide corporation with the goal of supporting CCSO members, their families and the communities they serve.

MISSION STATEMENT: CCSF is committed to providing valuable resources and charitable contributions to local communities, survivor benefits and wellness programs, as well as college scholarships for the children of active and retired members of the California Correctional Supervisors Organization.

CCSO was built on the principle of helping supervisors. A large part of that is done by providing legal representation, but we also have other ways to help our members. One-third of CCSO's budget is dedicated to member support. In order to offset some of the costs associated with supporting our members, CCSF can accept charitable donations. The donations are received through company sponsorships at our annual golf tournament, plus other fundraising events and opportunities. CCSF administers a proactive wellness program, as well as providing charitable



contributions to fallen officers, local community events and members in need. We pride ourselves on lending a helping hand to our members in good times, but also when times get tough. Whether we're assisting a family with meals and necessities during a hospitalization or recovery, or giving a scholarship to assist with the rising cost of tuition, CCSF and CCSO want to ensure our members are taken care of.

For more information, please contact the CCSO office at (800) 449-2940.

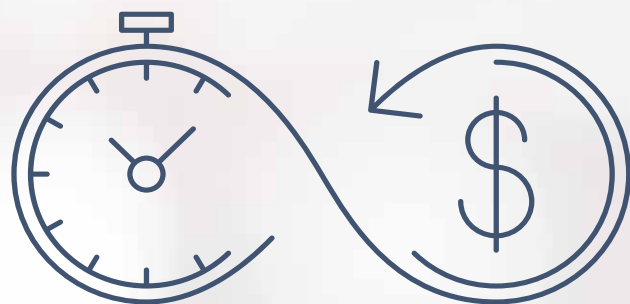
California Correctional Supervisors Organization

ANNUAL SUPERVISORY TIME BANK

GET READY!

CCSO has partnered with CDCR to establish a recurring Supervisory Time Bank (STB). CCSO representatives will be soliciting annual donations on their upcoming tours. STB donations provide executive officers, chapter presidents and members the ability to attend the annual conference, workshops, board meetings, meet-and-confers, trainings and many other important events. Your contribution is appreciated and ensures that supervisors have more opportunities to participate and learn.

Please contact CCSO at (800) 449-2940 for annual donation forms or more information about the Annual Supervisory Time Bank.



WE NEED YOUR HELP

2021 CCSO SCHOLARSHIP RECIPIENTS

The CCSO scholarship brings some of the finest students to our attention.

All of these young individuals stand out because of their community involvement and determination for excellence. They have maintained a high grade point average, which is not an easy task when participating in school, church and community activities. We applaud each student and wish them a bright future.

The CCSO office is pleased to announce our 2021 scholarship recipients! 🗝️



Michelle Abarca

Parent: Lt. Jose Abarca, SAC

College: San Francisco State University



Brendan Casaurang

Parent: CC III Richard Casaurang, HDSP

College: University of Nevada, Reno



Tristin Diaz

Parent: Capt. Joseph Diaz, WSP

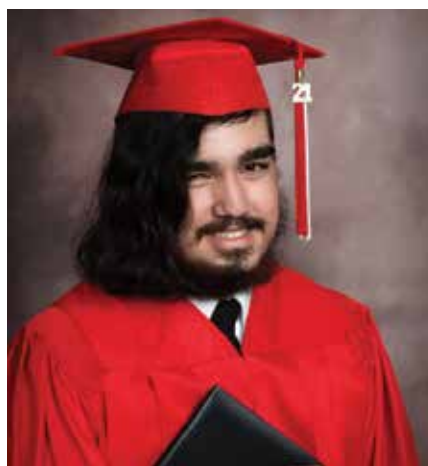
College: University of California, Los Angeles,
Henry Samueli School of Engineering and
Applied Science



Chl e Gonzalez

Parent: CC II Jorge Gonzalez, CVSP

College: University of California, Santa Barbara



Joseph Hagerman IV

Parent: Sgt. Joseph Hagerman, SOL

College: California State University, Chico



Ian Leal

Parent: SRN II Ernesto Leal, WSP
College: University of Kentucky



Hayden Lonie

Parent: MSS II Kristel Lonie, CVSP
College: Palo Verde College



Kylie Pierce

Parent: Sgt. Justin Pierce, HQ — OCS Fresno
College: Eastern University



Samuel Robinson III

Parent: Lt. Samuel Robinson, SQ
College: University of California, Berkeley



Amber Santana

Parent: CC III Edgar Santana, CVSP
College: Central College



Makenzie Thompson

Parent: Lt. Peter Thompson, DVI
College: University of California, Davis



Adrianne Toral

Parent: Sgt. Alexander Toral, WSP
College: Bakersfield College





FIRST RESPONDERS UNITED WELLNESS PROGRAM

CALIFORNIA CORRECTIONAL SUPERVISORS FOUNDATION

GUARDIANS

GIVING BACK TO THOSE WHO GAVE TO YOU!!

The California Correctional Supervisors Foundation (CCSF) promotes and supports employee wellness. It is beneficial for both employees and their employer, and plays an essential role in physical, emotional and mental wellness. In 2019, CCSF began providing employee wellness training at institutions affected by staff suicides. The training received exceptional feedback. As a result, CCSF established a wellness program named Guardians. The Guardians' mission is to provide mentoring, support, resources, education, and training programs to first responders and their families.

Proactive wellness programs are impactful for everyone, especially the law enforcement community. The stresses that come with employment as a first responder can be overwhelming.

- First responders are 39 % more likely to die by suicide than any other profession.
- Many first responder suicides are caused by job-related stress and emotional trauma suffered from Post-Traumatic Stress Disorder brought on by critical incidents and stress.
- Most first responders have felt the emotional and mental impact of a co-worker having committed suicide.
- First responders can suffer from addiction, and are likely to deal with divorce, family problems, or other interpersonal difficulties.
- First responders encounter daily challenges in a high stress environment. This stress, along with being in a constant state of hypervigilance, can lead to high-risk behavior and unhealthy outlets to control stress, such as alcohol, infidelity, substance abuse, anger, and violence.
- Some employers/agencies place emphasis on response to staff tragedies, instead of proactiveness and prevention through wellness trainings and resources.
- Prevention of mental, emotional, or physical crisis, will lead to positive outcomes.

The goals of the Guardians Wellness Program are to provide educational resources and assistance with the following:

- One on one and group mentoring
- Identification of high-risk behavior and subsequent intervention/mitigation
- Stress reduction strategies
- Promotion of positive stress outlets
- Mental, emotional, and physical wellness
- Crisis identification, prevention, and intervention
- Suicide prevention
- Retirement planning and strategies to support longevity after retirement
- Coping with the COVID-19 pandemic

Guardians' services are free of charge to your department/organization working in:

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LETTERS OF INSTRUCTION



Mike Stout |
Grievance Manager

As supervisors, your duties require you to train and periodically correct the behavior of your subordinates. Everyone has a boss, and you hope yours is knowledgeable, firm, fair and consistent, but that is not always the case. One of the most frequent calls we receive in our office from our members is about the Letter of Instruction (LOI) they just received. Most disagree with its content and their first reaction is to grieve it, along with other expletives, which require no further explanation.

What exactly is an LOI? A Letter of Instruction, commonly referred to as an LOI, is a corrective document and is defined in Department Operations Manual (DOM) §33030.8.1.4, which articulates the elements needed when preparing this document. LOIs are intended to correct minor misconduct or

practices that are not meeting Departmental standards. An LOI will not deprive employees of pay or benefits or get them removed from a position that was obtained through seniority methods, but it can be used in building a case for *repeated* or *continued* substandard performance. Keywords: *repeated*, *continued*.

LOIs are extremely difficult to overturn via the grievance process, as much of their content is subjective and does not require physical evidence or witnesses to corroborate. In order to overturn an LOI, the recipient must prove that the issuer is wrong, and the argument begins on the very slippery slope of “he said/she said.” Supervisors write and issue LOIs, and as policy dictates, they are reviewed through the management chain, including the Employee Relations Officer and Hiring Authority, prior to being served. Unless there is physical evidence that disputes the allegation against you or alleged oversight, the chances of you changing everyone’s mind with just your side of the story will usually not end favorably. As

history reflects, once management decides, right or wrong, they will ride that decision until the wheels fall off.


Another obstacle faced when grieving an LOI is identifying the rule, policy or law that the state violated in order to begin the grievance process. Since DOM §33030.8.1.4 defines LOIs, that section will most likely be the foundation of the grievance, and since the alleged violation is policy-driven, a fourth-level review by CalHR is not an option. Therefore, the two responses you will most likely receive are a denial from the Hiring Authority and a denial from the Office of Labor Relations. What's the next course of action after receiving a denial? *Nothing* — unless you want to spend the time and money to pursue your argument in court. If so, ask yourself if you're prepared to spend thousands of dollars and several years litigating over a document with a shelf life of one year. Trust me, CDCR/CCHCS knows the answer, but only you can make that decision. I have never seen an LOI challenged in court, let alone prevail.

Although the likelihood of getting an LOI overturned is

small, especially if there is no physical evidence that will clear you of the alleged deficiency, I always recommend responding with a written rebuttal. If you do not agree with the LOI, give your side of the story. That way, if you request a transfer or a promotional opportunity arises, the

reviewer of the LOI will also hear what you have to say, which may work in your favor. I have seen LOIs tossed out after a rebuttal was submitted, so you just never know. But also remember that if the LOI was warranted and there is no disputing the allegation, you are still in control, as you certainly should not *repeat* or *continue* whatever it was that started this ordeal.

In conclusion, I highly recommend that all employees

review their Official Personnel File (OPF) at least annually to ensure that any expired negative documents are removed. LOIs can be taken out after one year, and you do not want them sitting in your OPF. In this day and age of revolving managers within the Department, why provide new bosses with old news that may shed some negative light on you or create barriers? 

LOIs are extremely difficult to overturn via the grievance process, as much of their content is subjective and does not require physical evidence or witnesses to corroborate.

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QUALIFIED IMMUNITY: GETTING PAST THE MYTHS, AND HOW CHANGES WILL IMPACT YOU



Brandi L. Harper |
Castillo Harper, APC,
Managing Partner

Qualified immunity is a judicial doctrine that protects state actors from liability in certain instances. It was created by a series of U.S. Supreme Court cases, most significantly *Harlow v. Fitzgerald*, *Saucier v. Katz* and *Pearson v. Callahan*. Qualified immunity protects government officials from being held personally liable under federal law for conduct that did not violate a “clearly established” law. For example, assume there is a use of force and a correctional officer is sued for violating an inmate’s civil rights. A court could conclude

that the officer’s conduct violated the Fourth Amendment, but because the plaintiff could not cite previous cases where similar enough conduct was found to be a constitutional violation (i.e., the law was not “clearly established”), the case against that officer is dismissed.

Busting Qualified Immunity Myths

Qualified immunity has recently become a hot topic, not only in California, but around the country. The protests over the summer regarding police reform caused the doctrine of qualified immunity to be put under intense scrutiny. The scrutiny is intensified by several misconceptions about qualified immunity that have led some states, including California, to consider passing laws to abolish or severely limit it, especially as it relates

Qualified immunity no doubt offers a layer of protection against potentially devastating civil liability for law enforcement officers, but change may well be coming.

to law enforcement. For those calling for police reform after the social unrest during the summer of 2020, qualified immunity is a popular target. We have since seen various states begin the process of eliminating it. Additionally, there are some who believe that recent cases suggest the United States Supreme Court may limit qualified immunity in the future.

Qualified immunity no doubt offers a layer of protection against potentially devastating civil liability for law enforcement officers, but change may well be coming. Thus, a better understanding of what qualified immunity really is will assist advocacy efforts to preserve some form of it. An understanding of what qualified immunity is, and is not, should hopefully

provide comfort to any who think that the doctrine's loss will be totally devastating to law enforcement.

Myth 1: Qualified Immunity Prevents Law Enforcement From Being Criminally Prosecuted


Qualified immunity only exists within the civil realm. The granting or denial of qualified immunity has no impact on an individual's ability to be prosecuted. Qualified immunity is basically a type of affirmative defense that protects individuals from being monetarily liable for civil claims made against them in the scope and course of their duty.

Myth 2: Qualified Immunity Is Guaranteed Protection for All Law Enforcement Individuals and Always Granted

Qualified immunity is not automatic. Even if a law enforcement defendant raises qualified immunity as an affirmative defense, there is no guarantee that it will be granted. In every case, the decision as to whether qualified immunity is granted is within the discretion of the judge. Qualified immunity is generally raised prior to trial through a motion to the court.

Although many say it is nearly impossible to successfully sue police officers because of qualified immunity, this is not the case. Two separate studies, one from UCLA School of

Continued on page 18



TIFFANY EMON-MORAN

★ ★ ★ 4 CalPERS Board 2021

- ★ Retired Police Officer, San Bernardino
- ★ Certified Fraud Examiner ★ Wife and Mother
- ★ Masters Degree in Public Administration

My goal is to ensure the longevity and stability of our retirement system. I'm here to protect and serve our fellow members

www.tiffany4calpers.com

QUALIFIED IMMUNITY

Continued from page 17

Law Professor Joanna Schwartz and another by Reuters Investigates, show that qualified immunity is rarely granted in full and not always granted. In the Schwartz study, the courts denied motions for summary judgment, thus rejecting the qualified immunity defense, approximately 32% of the time. Additionally, courts only granted qualified immunity defenses in full 12% of the time. (See Schwartz, J.C., “How Qualified Immunity Fails,” *Yale Law Journal*, 2017, [yalelawjournal.org/article/how-qualified-immunity-fails](https://www.yalelawjournal.org/article/how-qualified-immunity-fails).) However, this does not account for plaintiffs — or, more accurately, their attorneys — who may be dissuaded from bringing certain cases against law enforcement officers because of qualified immunity when the particular facts are not closely analogous to a previous decision finding a constitutional violation.

Myth 3: Qualified Immunity Applies to All Civil Cases

Qualified immunity only applies to federal cases brought pursuant to Section 1983. These are federal cases that

generally encompass claims of excessive force, although they can also include other claims, such as First Amendment claims. Qualified immunity does not apply to state law claims often brought with federal civil rights claims, like battery, false imprisonment or Bane Act violations.

Myth 4: Abolishing Qualified Immunity Means That I Will Have to Pay a Judgment Against Me in a Civil Case for Actions I Take at Work

Not necessarily. Even under the current state of the law, state employees are found liable for actions taken in the course and scope of their duties. Under most circumstances, where the actions were not knowingly unlawful, a public entity will indemnify the officer.

Conclusion

Judicial doctrines change over time. Qualified immunity itself has changed over time. Qualified immunity, even as it stands now, is not guaranteed. Individuals should consult with trust attorneys and estate planning experts to explore their options for protecting their assets. 🔑

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The CCSO retired membership dues are \$60 per year, payable in monthly installments on the first day of each month in the amount of \$5.

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A PEEK BEHIND THE CURTAIN: THE ORIGIN AND IMPLEMENTATION OF THE *BRADY* DISCLOSURE LIST PORTAL



Dan Thompson |
CCSO General Counsel

First established after *Brady v. Maryland* in 1963, *Brady* lists have long existed in peace officer agencies nationwide as a way to keep track of various forms of misconduct among agency personnel. A *Brady* disclosure, then, consists of exculpatory or impeaching information and evidence that is material to the guilt or innocence or to the punishment of a criminal defendant.

Over time, the requirement and disclosure laws that apply to *Brady* lists have certainly received their fair share of attention and scrutiny. Most recently, last year Senate Bill 1220 was introduced, which would have required each prosecuting agency to maintain a *Brady* list containing the names of peace officers whose personnel files are likely to contain evidence of dishonesty or bias. This would have required agencies, upon request, to provide a list of names and badge numbers of officers employed by the agency (for the preceding five years) who had sustained findings of certain misconduct, findings of moral turpitude or group bias, or convictions of moral turpitude, or were facing criminal prosecution or on criminal probation.

Governor Newsom vetoed the bill on September 30, 2020, stating that it would impose a significant state mandate and he would not pass it due to the associated costs. But in the same notice, he went on to say, “However, I share the author’s goal of ensuring that our criminal justice system provides transparency and due process for criminal defendants. I am thereby directing the California Highway Patrol (CHP) and the California Department of Corrections and Rehabilitation (CDCR) to develop a process in which they proactively provide information in the form of a list

containing officer names and badge numbers to the 58 California district attorneys’ offices in order to assist them to fulfill their prosecutorial discovery obligations.”

Prior to this moment, counties kept and maintained their own *Brady* lists, but this marked the first time the disclosures were to be mandated and accessible on a statewide level. CDCR responded to this directive by creating the “Disclosure List Portal,” which was last projected to go live somewhere between the middle and end of May 2021.

In March, the OLR invited CCSO to participate in an informative meeting to provide insight into the mechanics of operating the Disclosure List Portal.

So, in March of this year, the Office of Labor Relations (OLR) invited CCSO to participate in an informative meeting to provide insight into the mechanics of operating the portal and the opportunity to ask questions. The following is the information we gathered as a result, which is anticipated to be close to the final implementation of the *Brady* Disclosure List Portal procedure. It should be noted, though, that as it is still an emerging procedure, it is possible that some things may change or be modified in the future.

1. Once an adverse action is effective (after the *Skelly* hearing), each employee relations officer (ERO)

throughout the prisons in California will be responsible for reporting the adverse reaction to the Office of Internal Affairs (OIA). EROs will be issued an email prompt every two weeks requiring that they forward notification of the imposed penalty for all cases.

2. OIA HQ will then provide notice to the Office of Legal Affairs (OLA).
3. OLA will have a team of roughly three to four attorneys, an Associate Governmental Program Analyst (AGPA) and a retired annuitant lieutenant (to start, at least) who will form a committee to evaluate each case to see if it meets *Brady* reporting criteria.
4. OLA's main attorneys over this committee are developing a flow chart or template of what qualifies an action for the *Brady* portal. They advised that they are doing this by comparing case law that has applied and interpreted *Brady*, generating a list of crimes of moral turpitude and cross-referencing the Government Code sections that pertain to sustained misconduct. This is still a work in progress and has not, for now, been provided to us, as it is deemed to be an internal working tool and is not presently a policy.
5. If an employee is deemed to be qualified for the portal, an advisement letter will be issued to them. It should indicate the date of the adverse action in question and then will also likely indicate which of the five criteria under the vetoed Senate Bill they fall under, such as pending criminal prosecution or on active probation. There was a fair bit of discussion with Labor Relations to push for more information so the affected employee may clearly understand the basis for their inclusion. How much information will ultimately be disclosed to the employee is yet to be seen.
6. The letter will also advise the employee that to be removed from the list, they must provide certain "official" documentation that would change their eligibility status; e.g., court minutes, a plea bargain, a decision from a criminal trial, settlement terms from the State Personnel Board or a decision from SPB — bearing in mind, of course, that the employer would have to decide *not* to pursue a writ or other appeal on an otherwise dispositive decision that would change the



- employee's eligibility for inclusion in the portal.
7. There will be a dedicated email address maintained by OLA for the purpose of providing information to their team for consideration as to an employee's portal status, to allow for employees and their representatives to move the process along. In other words, employees and their representatives will have direct access to OLA to share relevant information. It should be noted that all such information should ideally come from the employee's representative and must consist of only official and irrefutable information free of emotion and bias.
8. Once it is determined that an employee should be removed from the list, we were advised that this would be essentially as simple as clicking a box in the Case Management System. We should not anticipate lengthy delays in getting someone removed from the list once the decision has been made to do so.
9. Any case pending prosecution, once filed by the DA (regardless of the charge), and anyone on active probation will automatically be placed in the portal.
10. The portal has built-in technology that will automatically drop people from the list after five years — no proactive action on the part of the employee will be required.

What does it mean if someone is placed in the portal?

OLR stated, "The Disclosure List Portal will be a secured site, where only specific entities in CDCR (OIA and OLA) and the

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A PEEK BEHIND THE CURTAIN

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58 California DA offices will have a secure login and password. This Disclosure List Portal has auditing functions and will be able to track how many times and who has logged in. The DA offices will still need to pursue, through either a *Pitchess* motion or a Public Records Act (PRA) request, specific information they are looking for on a custody staff member. This portal will be updated approximately every 2–4 weeks by the OLA.”

It is important to understand that just because your name and badge number become “searchable” to a DA with access, this does *not* provide them with any details, allegations, findings or documents. Access to the specific file contents must still be carried out pursuant to existing law. Unless the record in question is subject to a PRA, the attorney seeking the information must appear before a judge by means of a *Pitchess* motion. This will then require that they present their case for disclosure “*in camera*” (confidentially), where the judge will hear both sides and then review the content of the personnel or disciplinary file to determine if any aspect of it is subject to release. This, of

It is important to understand that just because your name and badge number become “searchable” to a DA with access, this does not provide them with any details, allegations, findings or documents.

course, will depend on the reasons for the *Pitchess* motion, the contents of the file and the relevance to the due process of the defendant, as noted above.

So, what should you do if you receive a notice that you are to be included in the portal? *Do not panic!* Contact your CCSO representatives immediately so that we can evaluate the notice and the reasons for it and discuss with you the underlying reasons for possible inclusion.



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If we ultimately determine that there appears to be a potential mistake or error, we can contact the OLA on the member's behalf to seek clarification or advocate for removal. Even more importantly, if the member is legitimately included in the portal, vigilance should be maintained as to the status of any process that may permit the employee to be removed. As stated, this would include the resolution of either a criminal or disciplinary matter in a way that may remove the eligibility markers for inclusion. As we do not know exactly what criteria OLA is using to judge a member's eligibility for inclusion, it will be important that we vigilantly evaluate each and every case.

The most important thing you can do, as soon as you or any fellow CCSO members you work with receive such a notice, is to contact CCSO immediately! Please resist the urge to try and correspond with OLA on your own or provide information/evidence that you believe they "need" to see. We want all contested matters to be handled in the most professional and credible manner possible, and having CCSO's skilled legal representation involved will be important to your ultimate success. 

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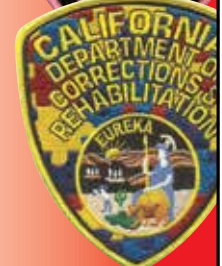
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JUST ANOTHER CDCR DENIAL?

Mike Maldonado |
CAL Chapter President

As a longtime employee of the California Department of Corrections and Rehabilitation (CDCR), I have often wondered why CDCR treats supervisors the way they do. Their policy dictates that supervisors are part of the management team, but we are never treated in that manner. Supervisors are the ones always keeping the machine running; we get things done. Supervisors get stuck in the middle between those not wanting to do the task and those ordering us to do it and/or get it done. Additionally, we are held more accountable than anyone else. How does this happen? What happened to teamwork? What happened to respect and accountability? Aren't the rules supposed to apply equally to everyone? I thought no one was supposed to be "above the law." Maybe that is the fairy tale that we were all brought up to believe, or perhaps I have been watching too many movies during the pandemic.

It seems that supervisors continue to be abused again and again. When the pandemic hit, we were told our salaries were being reduced by approximately 10%, and in return, we were to receive 10 hours of PLP per month. However, those we supervise received 12 hours per month. Why the inequity? I don't know that we have ever received an answer. Is it because rank-and-file employees' time is worth more than our time? They don't value us, so maybe that is why we received less. Maybe they didn't do well in math class, or maybe it's those making these decisions who were promoted and didn't have to meet the minimum qualifications like the rest of us.

Now CDCR is trying to punish us even more for having a Seniority Assignment (SA) process. They are trying to



pull back even more of what we believed were protections in our job and/or post assignments. We already have an inferior SA process when compared to the rank and file's version. Why do we only get a 60/40 split when rank and file get a 70/30 split? We have now been doing the SA assignment process for almost nine years — why are we getting reduced instead of increased? Once again, CDCR is trying to pull back on us when they already have the monopoly and tell us which way is up.

They have also reduced the dispute process if we don't agree with the way the SA process is handled. Once again, this is another monopolistic venue. Then we have the grievance process, which is totally controlled by CDCR. The grievance process is a wholly ineffective process

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JUST ANOTHER CDCR DENIAL?

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meant to resolve issues that are never resolved. However, this is the only process that we have before filing a lawsuit, if you ever make it to that point.

Just look at what CDCR is trying to do with supervisors with the SA process. They are trying to take supervisors back to the days of watch preference, where they decided where we were assigned. This is what they're currently doing to our SRN IIs, and it continues to be problematic. Why is CDCR trying to revert back and take things away from us again? Why aren't we valued? Why do they punish us by taking a SA when there is already a punishment attached to the violation? In the courts, they call it double jeopardy. The punishment is already the punishment, but not with the Department.

I frequently refer to the Department's processes as a monopoly. This is because that is what they are. Take the Excluded Employee Grievance Process for an example. Title 2, California Code of Regulations Section 599.859, authorizes this process, which is coordinated and managed by CDCR. How is this a fair and impartial process when they have a vested interest in these decisions? Most reasonable personnel would identify this as a conflict of interest, but not CDCR.

Recently, I was forced to initiate several Excluded Employee Grievances. I attached several older memorandums, which were *never* recalled, rescinded or revised. The Office of Labor Relations (OLR) didn't want me to be able to have this information to support my grievance and indicated they were no longer in effect, because they were initiated and in effect when we were CDC and no longer are in effect or valid because we are now CDCR. Does this really make any sense

to a reasonable person? CDCR still uses many policy memorandums that were placed into effect prior to 2005, when we changed to CDCR. Doesn't CDCR Headquarters (HQ) operate and update the CDC Memo archive that was maintained by Thomas Gaines at Wasco State Prison (WSP) for years and years until his recent retirement? Doesn't CDCR HQ now manage the CDCR Memo Archive and use the 1.0 Personnel Year (PY) they took from WSP for this purpose? And these memos still don't count or aren't in effect?

I also requested a third-level grievance conference and was promptly denied, indicating I had been provided a grievance conference at the institutional level. This denial was also after I had apprised them of the fact that I had received a third-level grievance in 2015/2016 with the current director. This made no difference to OLR, who love to deny everything.

I then felt compelled to reach out to Director Gipson on these issues. After months of emails back and forth, I was encouraged when I was informed on her behalf that supervisors would in fact get grievance conferences at the institutional level and also get third-level grievance conferences with OLR when requested. It was also implied that the old memorandums did in fact count. Sometimes, we need to think outside the box and use different means to accomplish goals when supervisors and personnel are being stifled.

This is important because grievances have always been treated and valued like the piece of paper they are written on, worthless. There is no skin in the game when you are being addressed on a piece of paper and are told anything and everything because you have no real recourse. You can't argue with a piece of paper. It is akin to a "cell warrior" in our business.

I am greatly appreciative to Director Gipson for her decision on this matter. We as a collective group of supervisors routinely suffer numerous defeats, unlike those we supervise. We also get less in many areas than those we supervise. We have to take as many in the win column as we can get. While we may not win every battle, we are still fighting that war.

Please use every tool that we have available or have won through hard-fought battles, either personally or through CCSO, to make the plight of supervisors better. The next time you file an Excluded Employee Grievance and don't get the resolution that you should, request grievance conferences at both levels. Don't let a piece of paper make a decision for you without your voice being heard. 🔑





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