

LIFE SUPPORT

HOPE



ALLIANCE

HELP

& California Lifer Newsletter

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LIFER-LINE

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THE COVID UPDATE

We're now 10-months into what has become far more than most of us every imagined, a viral contagion that has brought virtually everything, including CDCR to a halt. With no major changes, such as re-opening of visiting, re-start of in-person programs and face-to-face parole hearings, how much longer this 'new normal' will continue remains to be seen.

But, knowing that those still behind the wire often (usually) don't get complete information, we'll try to provide a snapshot in time about where we've been and where we are now, CoVid wise. Our usual disclaimer—by the time you read this, the current situation will have changed, probably more than once. But hopefully a recap will bring you more up to speed.

As things stand, at the end of January 2021, over 47,000 current or former inmates had tested positive for the Corona virus since the first case was reported at LAC on March 20, 2020. The current population of CDCR inmates is around 94,500, representing a decrease, since the March 11 start of the pandemic of nearly 25,000 men and women.

It appears that, like the rest of the nation, CDCR is entering the waning of a second wave of the virus, with totals both within the system and at most individual prisons slowly and unevenly declining day by day. This second wave, after the first influx in the summer months of 2020, was, as forecast, larger and more deadly than the first. Will there be a third wave? Sorry, our crystal ball cloudy right now. Of California's 35 adult prisons, 21 have, in the course of the pandemic, tallied positive cases in excess of 1000, 3 of those locations going over 2,000 cases and two, ASP and SATF, reporting over 3,000 positive cases in the last 10 months. And no prison has been spared, though 2 institutions, PBSP and SAC, posting a relatively few 207 and 283 cases respectively.

The cost of this modern plague, aside from the missed visits, isolation and depression, has been huge. As we write this newsletter, 192 inmates have died as the result of CoVid, as well as 22 CDCR staff/employees. Out of 35 prisons, 29 have had at least one inmate die from CoVid 19.

As of this date, though subject to change minute by minute, over 2,000 current positive cases within the CDCR system. And nearly 700 (former) inmates have been released back into society while still testing positive for the virus, because CDCR has no authority to hold anyone past their legal release date.

The highest level of cases, at least so far, was, during the second outbreak wave, on December 20, 2020, when CDCR reported a cumulative total of 10,737 positive-testing individuals on that day. During the apex of the first wave the highest single day case number was 2,595 on July 1. By the end of January 2021, CDCR reports it has vaccinated roughly 9,000 inmates with one of two approved CoVid vaccines.

While numbers are cold representatives of a very human issue, they do at least provide some context and reference. Herewith are the prisons that have experienced the largest outbreaks, the total number of positive cases tallied by that institution since mid-March and the number of deaths at each prison.

We note here that the vaulted 'herd immunity' level of positive cases is usually considered to be reached when 70-75% of any given population cohort have tested positive for the contagion. Currently it appears that 7 institutions have reached that level, though the numbers aren't 'spot on,' as there has been some 'coming and going' among the individuals in any institution's population. Still, the overall picture is pretty clear.

Masks are still required, both of prisoners and staff, regardless of what the rumor mill says. If you have questions on what the official CDCR protocols are for mask wearing, quarantine and similar issues, all this information is available on CDCR's website, and, because we understand you don't have easy access to the internet, ask your families to print and send those documents to you. Or as a last resort (because we have limited staff resources) send us a request and we'll do the same.

In the meantime, in the hallowed words of Lt. Col. Russell Honore, Louisiana's favorite son,

"Wear Ya Damn Mask, Stay Ya Ass Home, Wash Ya Damn Hands .

INST.	# CASES	% POP	DEATHS	INST.	#CASES	%POP	DEATHS
ASP	3102	97%	8	CIM	1498	73	27
SATF	3010	69%	6	LAC	1473	54	13
CTF	2690	63%	16	WSP	1354	55	1
CMC	2465	81%	5	FSP	1353	64	2
SQ	2236	83%	28	CCI	1338	45	4
PVSP	1985	72%	3	CCC	1263	39	0
CAC	1985	98%	2	SCC	1255	42	0
HDSP	1980	59%	2	ISP	1204	43	1
CVSP	1779	95%	9	SOL	1030	32	3
MCSP	1678	43%	5	RJD	1009	28	16
CAL	1636	35%					

COVID DEATHS ELSEWHERE

CHCF	11	COR	11
CMF	8	CIW	1
KVSP	6	CRC	3
NKSP	4	CEN	1
SVSP	4	VSP	1

IN RE: PALMER UPDATE

On January 28 the CA Supreme Court reversed the Court of Appeal decision below which had ruled that because it found Palmer's continued prison term confinement 'cruel and unusual' and therefore excessive, it could terminate both his prison confinement and his parole tail. The Supreme Court held that the term of incarceration for the crime was a separate and distinct punishment from that of the subsequent period of parole. Palmer had since been found suitable for parole by the Board and released from further punishment of incarceration, so the Supreme Court therefore did not rule on that moot claim. But it denied his release from parole, because the State has a separate and distinct interest in Palmer's successful reintegration back into society - the essence of parole supervision under the law.

Palmer will therefore continue on parole until he is discharged. That discharge may be at the end of 3 years, under new policy now getting under way via agreement between Division of Adult Parole Operations (DAPO) and the BPH.

NEWSLETTER UPDATE

If you are receiving Lifer-Line monthly newsletter as part of LSA's volunteer mailer tree and not via the kind efforts of a friend or relative—heads up.

We currently have a waiting list of indigent inmates who would like to receive this newsletter from one of our volunteers, but we have more requests than volunteers. Toward correcting that imbalance, we will in March begin auditing the addresses on our indigent list and those that do not have a housing assignment noted will be removed.

Why? Because if you haven't cared enough to let us know where CDCR has moved you, then, from our perspective, you're not that interested in getting Lifer-Line every month. And so, we'll offer that spot on the mailing list to someone who is interested.

Fair notice and warning here—take a look at the envelope you received this issue of Lifer-Line in and if it doesn't have a housing designation, your continued receipt of the newsletter is in jeopardy. But you can fix this—all you need to do is mail us your housing info.

Send us an update—your name, CDCR # and housing. Get it to us before the end of March, and you'll be good to go. We do this audit every year, and those who are interested in keeping up on what's going on will respond. PO Box 277, Rancho Cordova, Ca. 95741.



THOSE NEW CRA REGS

As expected, the Board of Parole Hearings voted at the February Executive Business Meeting, to adopt a change in regulations regarding PC 2240, the code that solidified the CRA and its place in parole hearings. While these new regs are not great, they are not, in our humble but not uneducated opinion, a nefarious attempt by the BPH to systemically prevent parole grants or hearings.

Honestly, we're just tired of conspiracy theories. And we're also pretty tired of various groups/individuals/'causes' whipping up a fear-based frenzy among the prisoner and prison family population on changes by providing incomplete information and context.

No one fought the implementation of 2240 and CRAs harder than we did, way back in 2011 and we're still not a fan. But CRAs are the law-of-the-land, so to speak, and now we're focused on how those documents are used. The newest change to the CRA process does make a significant change in the CRA process for a relatively small cohort of lifers, but it is not the flat, blanket denial of parole or hearing access that many appear to believe.

Here is what it does: For those lifers who are both 1) determined to be Security Level IV and 2) have received two or more serious 115s between January 1, 2018 and Jan 1, 2022 (both qualifications must be met) the board shall not be required to prepare a risk assessment for either an initial or subsequent or reconsideration hearing. Meaning, if a lifer is designated as a high security inmate AND has 2 or more serious RVRs in the 36 months between January 2018 and January 2021, that individual will not get a new or initial CRA prior to their next (or first) scheduled hearing, if that hearing is scheduled between January 1, 2021 and June 30, 2022, a period of about 18 months.

BPH Executive Director Jennifer Shaffer, in the conversation leading up to the board's unanimous vote to approve the change, reported the change would affect roughly 1,177 persons out of about 35,000 lifers, about 8,000 of whom would be scheduled for parole hearings any given year. There is an appeal process, as well as a requirement that those affected by these changes be notified 60 in advance of the hearing date if a new CRA will not be created, so they can avail themselves of the appeal regarding the CRA.

During the BPH meeting in January, during this change public comment on the proposed change prior to the vote, many comments from members of the public, who were largely family members of lifers, indicted a basic misunderstanding of the proposal. Person after person railed at the board for moving to automatically deny either or both, hearings for lifers who fit the criteria or grants for those individuals.

Let's be clear here; this change, while certainly not ideal, it is not a wholesale automatic denial of parole and certainly is not a denial of the opportunity for a hearing. The new regs DO NOT change the schedule or any hearing, nor preclude any lifer from having that hearing held. Will it automatically mean a denial for those impacted by the change? Not necessarily.

Yes, it does mean that if a lifer who fits the criteria has received a high-risk rating on a past CRA s/he will not receive a new CRA, with the possibility of seeing that risk rating lower to moderate. And it is also true that less than 1% of those individuals up for parole who present with a high-risk rating are granted parole.

But, considering that to be under these new changes one would need to have 2 serious RVRs within 3 years, the likelihood of someone in that position convincing a FAD clinician to reduce their risk rating (whether from high to moderate or moderate to low) is, for better or worse, pretty slim. So, here's the important part: while those who fall under these new regs will not get a new CRA, even if that current document is older than 3 years, they will still get a parole hearing at the scheduled date and time. And they still have the opportunity, uphill battle though it may be, to convince the parole panel of their suitability.

The reason for this change is totally based in logistics---under the various laws passed in recent years are bringing many more lifers, 3 strikers and even long-term determinate sentenced prisoners to parole hearings, many with a must-do date that plunks those hearings right in the middle of BPH's carefully laid and intricately convoluted scheduling of hearings. Shaffer made the case at the recent meeting that while the board itself wasn't crazy about postponing CRAs, they were even less enthused about any additional backlog that could be caused by an inability to meet a CRA requirement for all under parole consideration.



She noted there is precedence for not all those coming before a panel to present a CRA; those California prisoners who are housed out of state for reasons ranging from accommodation for various health/family reasons to their own protection, do not receive a CRA prior to their California hearings, as the forensic psychologists who are the FAD are not licensed to practice their trade (and practice is often the operative word) in states other than California.

Shaffer noted the board has experienced nearly twice as many hearing postponements since the beginning of the pandemic than for the same length of time last year, and the addition of many more hearings that must be held by a certain date was quite likely, in the considered opinion of the board's analysts, to result in even more of a backlog than the current 717, and one of the reasons for that backlog is the difficulty currently being experienced by the FAD in catching up on all CRAs for the increased number of hearings scheduled.

Thus, the decision to eschew new CRAs for a certain cohort of inmates, which means their hearing will go forward. BPH has long maintained CRAs are only one tool the panels use in evaluating suitability—this may be a make-or-break situation for that claim. Yes, this decision will probably be challenged in court, and that action may well not come to conclusion before the conclusion of this policy, as it the will not be applied to hearings held after June 30, 2022

So here's the take-away; if you are a Security Level IV inmate, with 2 or more serious RVSs between January 2018 and January 2021 in your jacket, you won't be getting a new CRA IF you're slated for a parole hearing between January 2021 and June 2022. You'll get your hearing and can make your case, you can even appeal and ask the BPH to provide you with a new CRA, but new or stale, you'll go to your hearing (if you choose not to stip, waive, or cancel.

If you fall under the perimeters of the new regs change and your hearing is scheduled for after June 30, 2022, you'll get both the hearing and a new CRA. And don't think you can do a work around by postponing or cancelling a hearing scheduled within that time frame, to get it rescheduled for later and get a new CRA. The new change applies to hearings scheduled during that time.

If you don't fall under those perimeters, you'll get a new CRA if your present eval is or will be 3 years old or more by the date of your next hearing, regardless of when it is. We don't much like the new policy, but we're realistic enough to recognize the logistics of the reason for it, and it may well be a case of the lesser of two bad choices—no CRAs for some, or late hearings for many.

What is important is that all those headed to hearings, and their supporters and family, understand the new policy, how long it lasts, what it really means and how it can—or won't—affect them.



A PRIMER ON ELDERLY PAROLE

The two paths to elderly parole hearings seem to be pretty confusing for many. Perhaps a brief bullet point chart of the two elderly parole paths, currently running simultaneously, will help.

ELDER PAROLE UNDER AB 3234--50 YEARS OF AGE/20 YEARS INCARCERATION

- Must meet both qualifications of age and time in (continuous incarceration)
- Certain sex offenses are disqualifying
- Peace officer as a victim or intended victim disqualifies
- LWOP are excluded
- Third strikers are excluded
- Does apply to DSL inmates who are not otherwise disqualified
- Applies only to timing of initial hearing

ELDER PAROLE 60/25 (BPH & 3JP AGREEMENT) 60 YEARS OF AGE/25 YEARS INCARCERATION

- Must meet both qualifications of age and time in (continuous incarceration)
- Certain sex offenses are disqualifying
- LWOPs are excluded
- Third Strikers ARE INCLUDED
- Applies to DSL inmates who are not otherwise disqualified
- Applies only to timing of initial hearing

Both of these paths to elder parole hearings are running simultaneously, but prisoners will qualify for an initial elder parole hearing only under 1 program.