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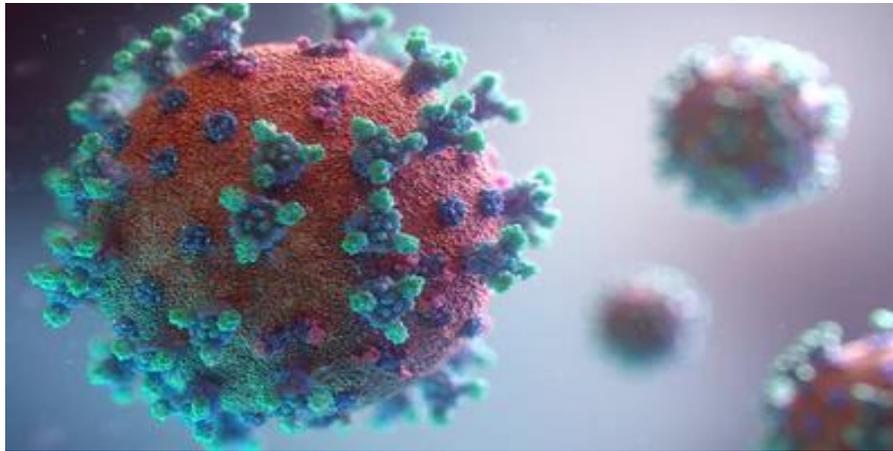
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APRIL 2020

LIFER-LINE

VOL. 11; ISSUE 4

THE NEWSLETTER OF LIFE SUPPORT ALLIANCE © LSA, 2020



LIVING IN INTERESTING TIMES

It's said there is an ancient Chinese curse, "May you live in interesting times." And it appears we may be living that curse. As the Corona novel virus/ CoVid 19 pandemic sweeps the world, California and the state prison system is not immune to the effects of that of either the virus itself or the extraordinary measures taken by agencies across the country and world to mitigate the spread and fatalities of the virus.

As we go to press (at the end of April, with figures changing several times each day) just under 200 inmates among the 118,00+ prisoners in the 35 adult prisons in California have tested positive for the CoVid 19 virus, with one death reported. As of press time only 7 prisons have active outbreaks, most so far contained to single digit numbers.

Lancaster was the first prison to report a positive testing inmate, soon joined by California Institute for Men in Chino. Those two institutions have the dubious distinction of accounting for 95% of the positive prisoner cases, CIM with 88 and Lancaster 80. A smattering of positives is also noted at CMC (3), Centinela (2) and one each at CIW, NKSP and SATF. All this as of the last Sunday in April.

Although the number of prisoners testing positive for the disease rise by several each day, it appears and drastic action by CDCR officials at the beginning of the outbreak may be paying off in what we, incarcerated or not, have come to understand is 'flattening of the curve' of the virus' spread. On March 11 CDCR announced the suspension of visiting in all prisons for an indefinite period of time. Although widely decried at the time, the elimination of literally thousands of potential carriers of the virus into the prisons may have been the single most effective step officials took to shield the close-packed and thus vulnerable population of inmates. AS the weeks progressed CDCR continued to adapt both programming (mostly suspended) and housing, to facilitate the now-familiar term of 'social distancing' among the prison inhabitants.

The most recent adaption made by CDCR is the issuance and direction of all staff and inmates to wear masks while interacting with others. Surely the specter of an entire prisons population of

masked inmates must be among the most incongruous events in CDCR history. Despite the hardships to prisoners of no programming, reduced vocational participation, reduced yard time and no visiting (a hardship on the families as well) the draconian actions have, to date, made California one of the leaders in the nation in holding the line on the number of prisoners infected with the CoVid virus.

For a bit of context, while the number of inmates in California prisons testing positive for the Corona virus will no doubt breach 200 in the next few days, by contrast, the state of Michigan, with a total prison population of 38,000 has already suffered 21 inmate deaths from CoVid with nearly 600 positive cases. In Ohio, 73% of those incarcerated in one prison are testing positive and state officials estimate statewide there are over 2,000 ailing prisoners.

Closer to home, the federal prison at Lompoc, California, with a total inmate population of 1,500, paltry by California state prison numbers, has well over 100 positive CoVid inmates and has already reported 2 deaths. And while CDCR has been amazingly (considering we're talking about CDCR here) transparent in reporting both positive tests and fatalities, Lompoc has taken a total black out stance, with new cases of CoVid a closely held secret, until those individuals need hospitalization, when they are simply transported to the local county hospital...surprise! The prison in Lompoc just recently instituted lock down procedures.

Around mid-April the department announced it would begin distributing PIA manufactured masks to both inmates and staff to provide at least a minimum level of protection. Additional steps to slow the spread of the disease came in the form of early releases for some 3,500 state prisoners, convicted of non-violent crimes and within a few months of their scheduled release. CDCR also halted the intake of any new state prisoners from counties. The two decisions together resulted in a net population reduction of about 6,500 individuals.

Additional steps taken by CDCR included transferring some prisoners from some institutions that were more overcrowded to those that were 'less' overcrowded. The irony and incongruence of the terms are not lost on us. Other locations saw gyms and other 'underused' portions of the prison retro fitted as temporary housing units.

Lifer parole hearings have also been affected, with all such proceedings now being conducted by teleconference, much to the consternation of all concerned. But hearings are going forward and to date, the grant rate seems to be maintaining (See elsewhere in this issue for more parole information).

Nationwide, the CoVid virus has infected nearly 1 million Americans, with deaths from the disease's effects expected to top 60,00, at the rate of about 200 new deaths reported each day. How much longer will these separation measures be in place? No one is sure.

Currently those most important things those inside the wire can are these:

1. Report symptoms if you're ill. We've heard reports of some not wanting to report symptoms to medical, not wanting to be more quarantined that now. If you're sick, get to medical and be tested. Not only are you running the risk of putting your life in danger, you could be infecting the rest of those around you...hardly the pro-social outlook we, and the board, expect of lifers.
2. Wear the PIA mask. It doesn't offer total protection, but it helps. And know that those of us out here, outside the wire, are masking up as well..in grocery stores, on buses, just walking dogs. Everyone is asking— 'who was that masked man (or woman?)'
3. Social distance as much as possible and be diligent about washing hands and surfaces. The last could be the first, last and best defense.
4. Don't buy into rumors—CDCR is not out to kill inmates by allowing this pandemic to become prison-demic as well. If the rumor sounds unbelievably stupid (and again, we know we're

talking about CDCR) it isn't true. CDCR, as an agency, is, in this instance, being amazingly open and forthcoming.

5. Communicate. Let us know how things are in your location. Are staff also wearing masks (they are required to do so also)? Are cleaning products available (yes, you'll have to do the cleaning—Merry Maids isn't going to show up)? What are you doing to make use of your time—let us know?
6. Stay positive –tomorrow, or the day after, is another day.

In the meantime, mental health clinicians at the prison have a free self-study package on Anger Management and other topics that will produce a certificate for those who finish the program. And LSA has a few brief and helpful handouts on subjects from stress management to creating parole plans to understanding your CRA—send us a stamp or two and let us know where we can help you.



GRANT RATE HOLDING FOR HEARINGS BY VIDEO

As everyone adjusts to what has been called the 'new normal,' questions about the parole hearing process as conducted by video conferencing are surfacing. The business of holding parole suitability hearings continues, certainly much altered from what any of the participants have known before, but with surprisingly encouraging results.

Figures just obtained from the BPH of hearing results in the first 3 weeks of April, all held via video conferencing, show a grant rate well in line with what we would expect to see, given the results of the last few years and the nature of hearings scheduled this year. In 2019 the board recorded an overall grant rate of 34% for hearings held. In the 3 week period covered by the most recently released numbers, the grant rate for completed hearings was 35%.

These numbers and percentages are for hearings held to completion and does not include those hearings scheduled by not actually held, due to a variety of results, some discussed below. While here were nearly 570 hearings scheduled during this time period, only 211 were held to completion.

To be sure, some statistics apparently are different—the number of postponed hearings is up, some 201 potential parolees deciding before their hearing they wished to postpone and another 58 postponing at the hearing. While stipulations and waiver numbers seem to be about in line with what is experienced in the past, in person hearings, the postponements are probably a side effect of the teleconferencing process.

In the teleconferenced hearings everyone participates from their various 'shelter in place' locations, be that home or office, or, in the case of the potential parolee, the parole hearing room. The inmate, along with one or more custody officers, is the only person in the hearing room, his/her attorney also participating by teleconferencing, with a system in place for confidential consultation between client and counselor, should the need arise. There have been some reported problems with the

confidentiality issue in this system, and when that has occurred, the hearing is rescheduled for another date and time.

However, reports we've received from both inmate attorneys and prisoners themselves indicate some individuals are simply more comfortable with their attorney at their side, so they choose to postpone their hearing until such time as the process can safely revert to all persons present and accounted for, in place at the same time and place. And just when that will be is anyone's guess, but BPH strives to have postponed hearings rescheduled within 6 months.

Some attorneys and prisoners report they were comfortable with said prisoner being alone (absent consideration of the ever-present custody officers) in the hearing room, where they can possibly feel more comfortable about using and referring to their notes than under the scrutiny of the board members.



LATEST COVID RELEASE SUIT FAILS

Latest efforts by attorneys representing the Coleman and Plata classes in on-going issues with CDCR and overcrowding of prisons by forcing CDCR to release more state prisoners in the face of the CoVid pandemic were dashed recently when the Plata US District Court refused a request from the Prison Law Office to order CDCR to begin such releases. The plaintiffs were required to prove CDCR exhibited 'deliberate indifference' to the threat of CoVid virus to the prison population.

The court found actions taken by CDCR prior to the suit and additional on-going actions by the department did not meet that standard and thus denied such relief via additional prisoner releases, in excess of the roughly 3,500 inmates given early release by CDCR in efforts to provide more space and thus less danger of infection in the prisons.

LSA submitted a pro per amicus brief in the District Court case, bringing to the Court's attention the (then) new rapid result test marketed by Abbott Labs, which promises a 5 minute result, rather than taking a test, submitting the specimen to an outside laboratory and waiting the result. Our amicus brief suggested the court use its authority to direct CDCR to test everyone entering prison grounds, as the virus was only moving in one direction, into the prisons from those on the outside.

While the court declined to consider any amicus briefs, we still feel this is an obvious and more certain preventative measure than those currently being taken by CDCR. As we go to print, CDCR has reported testing over 1,000 prisoners for CoVid 19 virus, with just over 180 positive tests, nearly 300 tests still waiting reporting of results and 1 death so far reported.

This decision marked the second time in two months that attorneys for the Plata and Coleman groups have attempted to convince the courts to intervene in CDCR's mitigation efforts for the spread of the CoVid virus. Earlier another court ruled it did not have jurisdiction, paving the way to the most recent action and decision.

WHERE WE GO FROM HERE

Even before the novel Corona virus floated on to the scene and wreaked havoc with plans, of both individuals and organizations, LSA was contemplating and re-evaluating the best ways to reach lifers with information and assistance on parole suitability. In the weeks prior to CDCR halting all in-prison programming, LSA's small but intrepid presentation team was in at least one prison each week to offer programs, usually working and traveling 3 out of 4 weekends, sometimes covering all yards at a prison in a weekend.

It was both exhausting and exhilarating, meeting literally hundreds of lifers and bringing them information and programs to help them meet the bar of suitability. But it was probably also unsustainable. The last few weeks, when programming has been on hold, have been frustrating for all concerned, and has given us an opportunity to re-visit our strategy, looking for better ways to provide what we know can help lifers in their change and rehabilitation.

When the programming shutdown was announced we were mid-way through a two part program at 3 institutions, on the last week of a 12-week cycle at yet another prison, looking at scheduled dates at 3 locations and working on finalizing dates at yet 4 more prisons. Clearly, we were meeting ourselves coming and going. Or maybe going and coming. Actually, it felt more like going and going....

So where do we go from here? How do we meet the requests for programs, provide the information we know is useful, helpful and meaningful to more lifers without exhausting both ourselves, our vehicles and our travel budget? Well, forward is where we go.

While we are not going to abandon our in-person presentations, we are in the process of training additional presentation teams, to spread that travel schedule a bit. And we're looking into training teams in other institutions to present our material, again, to reach as many as possible.

Within the next month we'll be offering a set of correspondence courses, available to individuals or groups, that will take lifers and others interested in real life change, through steps and methods we know work, provide the opportunity for real change and development of insight. And we continue to provide handouts for many areas of parole suitability, from building a parole plan to understanding your CRA to where to find transitional housing and books for book reports.

Watch this space, we're out to reach as many lifers as possible, in as many ways as possible.

PAROLE ELIGIBLE DATES EXPLAINED

Much confusion exists about what date any given prisoner might be eligible for release on parole. In the alphabet soup that is CDCR, what's the difference between MEPD, YPED, SPED and any of the other possible dates, especially when any given inmate can have more than one parole eligible date. Below is the explanation from BPH of those classifications.

EPRD-Earliest Possible Release Date; the first date a determinately sentenced prisoner (DSL) can be released based on his/her sentence, less any acquired credits.

MEPD-Minimum Eligible Parole Date; the earliest date an indeterminately sentenced prisoner (lifer or ISL) is eligible for a suitability hearing before the Board of Parole Hearings, based on the length of court-imposed sentence, less any applicable credits.

NPED-Nonviolent Parole Eligibility Date; the date a determinately or non-violent indeterminately sentenced prisoner is eligible for parole consideration under Prop. 57 after having served the full term of their primary offense. This will be an administrative review for determinately sentenced prisoner or a parole hearing from non-violent lifers; those convicted of sex offenses are excluded.

SPED-Second-Striker Parole Eligible Date; the date non-violent DSL prisoner is eligible for parole consideration administrative review after having served 50% of total term, under court order by the Three Judge Panel.

YPED-Youth Parole Eligible Date; the date an inmate who committed their controlling offense before the age of 26 are eligible for a parole hearing; determined by the length of their sentence, either ISL or DSL. Third and second strikers are excluded, but those LWOP inmates who committed their life crime before 18 years of age are included.

EPED-Elderly Parole Eligible Date; the date DSL and ISL inmates who have served 25 years of continuous incarceration and are aged 60 become eligible for parole under the Three Judge Panel court ruling. LWOP or condemned inmates are excluded.

While prisoners may have more than one parole eligible date, the controlling parole eligible date is the date that will bring the individual to a parole consideration at the earliest opportunity.



WHAT TO DO DURING COVID

Since the beginning of the quarantine for those outside prison gates, it's seemed to us that those inside those gates are handling what politicians are calling 'shelter in place,'—better known as lockdowns to those inside—with more grace and less angst than those of us in the 'free' world. Most inmates are veterans of more than a few lockdowns of varying lengths of time, and during those previous experiences they've become adept at passing the time.

And that belief has been underscored by comments from former lifers, now paroled and expressing the mild bemusement at the agitation of the rest of the population at having to stay in one place, eat the same food, do the same things and basically just keep themselves to themselves. But for those who may be getting a bit antsy in the current unpleasantness, here's a few suggestions:

Meditate—soothes the mind and soul and increases your self-awareness—always a good thing for board appearances.

Self-study—family can find you some interesting courses or study programs, and if not, we've got a few to offer. Write us.

Concentrate on the positive things in your life—and yes, even prisoners can find some positive situations. Make a list; find the things that are better now that they were 6 months, a year, 5 years ago. Also, useful attitude to take to the board.

Journal—always available, good for venting and useful in increasing the understanding of yourself. And the board recognizes the value.

Write your family—they want to hear from you, want to know you're alright. Never underestimate how much you mean to them, and now is a good time to let them know how much they mean to you.