

# LIFE SUPPORT

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# ALLIANCE

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*& California Lifer Newsletter*

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## CoVID—THERE ARE NO BEST PRACTICES

*Note: these facts and figures are correct as we go to print on July 28, 2020. But because of swiftly changing circumstances, by the time you receive this newsletter, these facts and figures will have changed.*

Has it been only a month since we reported 18 prisons with positive CoVid patients and 21 deaths? Seems a lifetime ago, as the daily numbers of positive cases rise and fall, but the number of deaths rise. Today, July 28, there have been 47 deaths from the Corona virus among the inmate population and currently 1,752 in custody inmates who are positive for the virus.

And the 21 prisons with positive cases last month? Now only 5 prisons have, as of today and always subject to change, have totally escaped spread of the virus. So far, only CTF, DVI, MCSP, PBSP and VSP. Last month PBSP reported a single case, but that eventually was determined to be a false positive, following further tests. *\*note: MCSP reports 1 case on July 28.*

Where are we now? Not out of danger, that's clear, but perhaps approaching that 'flattening of the curve' medical professionals keep hoping for. Maybe. As we've watched the overall numbers rise and fall, the total number of positive cases in the inmate population reached 7,690, with a trio of prisons accounting for over 1,000 each.

San Quentin has experienced 2,159 cases of CoVid as of today, which converts to 75% of the population of the institution. ASP, has had a total of 1,159 cases, or 35% of the inmate population and CVSP, coming in at 1,054 cases, 48% of the population, rounds out the beleaguered trio. Herd immunity? Only SQ might qualify, as the level for herd immunity is widely regarded as being 70% of the population.

In most of the prisons the outbreaks seem to be slowing, but there are some disturbing trends. Avenal is trending up again, today showing 202 cases, all appearing within the last 14 days. Two weeks ago, Avenal's positive case load stood at 12—then over a weekend the total went to over 100, increasing daily until today's report. CIW, currently with 125 cases, and been at zero 14 days ago. Other prisons showing increases in the critical 14-day window include CCI, WSP, CRC ISP, COR and CRC, all with at least 2/3 of the present cases presenting in the past 2 weeks. LAC, where it all started so long ago, has been CoVid free for weeks, before seeing a few cases in the last 2 weeks, now standing at 5.

The worst toll of CoVid is undoubtedly the deaths caused by the virus. Of the 47 total, both SQ and CIM has suffered 19, with 5 at Avenal, 2 at CVSP and one each at CIW and COR. Of the 19 deaths at SQ, 10 were of condemned inmates. SQ, certainly the hardest hit of any institution, has now administered nearly 3,500 tests for CoVid, to a prison population of 3,462, at last official count. CDCR, working with the California Correctional Health Care Services (the federal medical receiver's office), is trying to figure out social distancing, quarantine, cleaning and mask wearing within a congregate and custodial environment—not easy tasks. And not made easier by the refusal of some staff, and inmates, to wear masks in their interactions. As to cleaning, most lifers will attest, it's always been up to the person wanting to use whatever facility or item is in question to make sure that area is clean before they begin. Nothing has changed. Don't expect staff or others to clean up after themselves, to the point you feel safe. Do it your own self.

And a word on rumors. In the past several weeks the always active rumor mill inside has been on steroids. We've had 'hot tips' about 'hidden cases' in every prison from PBSP to RJD, most of those 'tips' coming from the 'I heard it from an officer or I heard it from a guy on the yard.' Please. Do yourselves and us a favor and don't buy into every rumor. News flash here, the COs, and even the guys on the yard, don't know nearly as much as they'd like you to think they do, though they are usually happy to share their ideas and thoughts.



As to hiding cases of CoVid—not so much. Test results from CoVid tests are sent to the county health department in whatever county the prison is located, to be tabulated in the county's chart, and also reported to CDCR. Nothing works quickly and in CoVid times, with staggered shifts, things like updating sites are often slower. But those positive results will be counted, not hidden. The various counties in California have no loyalty to CDCR, nothing to gain by 'hiding' results and everything to gain by accurately reporting the situation. And they do. Plus, be aware that the courts are carefully watching CDCR's response to the pandemic and no one is looking to incur the ire of the federal courts by being nefarious in reporting.

CDCR has undertaken a plethora of plans and guidelines to facilitate early releases, and the department is now eyeing those with a year or less to serve in efforts to push some out early. These efforts, so far, have not impacted the lifer population to any great degree, but there are some efforts underway to examine those in that cohort as well—see story elsewhere in this issue.

And don't let anyone, staff or otherwise, tell you that the requirement to wear masks when inside and/or interacting with others has been lifted. On July 1 the department sent out a memo that noted, in part:

*“The intent of this memorandum is to clarify the expectations outlined in the June 11, 2020, memorandum authored by Ralph M. Diaz, Secretary, and J. Clark Kelso, Receiver, California Correctional Health Care Services, regarding the wearing of face barrier coverings. It is vital that staff adherence to that directive is necessary to protect the health of the staff, their families, the inmate population, and the public.*

*For individuals who do not adhere to this directive, it is expected that supervisors and managers utilize the progressive discipline process as outlined in the Department Operations Manual (DOM), Article 22, Employee Discipline policy, in addressing staff who fail to comply with the June 11, 2020, directive. Supervisors and managers must also be cognizant that staff may have a medical condition that precludes the wearing of facial coverings. In those cases, staff should be directed to the Return to Work Coordinator for consideration of a Reasonable Accommodation.”*

## **EARLY RELEASE? GET YOUR NAME IN THE RIGHT BUCKET**

To be considered in the plans, criteria and how to tap into the early releases actually happening in the wake of CoVid, it's important to make yourself seen. As those criteria keep changing—almost daily, how do you bring yourself to the attention of those making these decisions?

The best way—file a Commutation request with the Governor. For decades commutations were a long shot, until about mid-way through former Gov. Edmund G. Brown's term, when Brown began to use the commutation power to right some of the wrongs of sentencing. Current Gov. Gavin Newsom has continued that path, to some degree, and now, under the pressure of CoVid and overcrowding, commutation applications can provide a new avenue to at least consideration for release.

Information provided on the commutation application can be used by CDCR's statistical and research division to identify those individuals who qualify for consideration under release criteria, such as those with less than 5 years to serve, over the age of 65, with CoVid-sensitive medical needs, low CRA (or CSRA) scores, and more. As CDCR and the Governor look at various cohorts to find individuals within those groups who seem likely candidates for early release, those data points can place you in the 'bucket' of those being considered. Best advice from those in the know in Sacramento—put in a commutation petition, knowing it will be for reasons other than the Governor's scrutiny for commutation. On that petition—which can be found on the Governor's website, in the law library, probably from counselors and worst-case scenario, from LSA, present the factors of your situation that make you vulnerable to CoVid complications.

Are you over 65? Underlying medical conditions that make you ripe for CoVid complications (high blood pressure, COPED, diabetes, cancer, other ailments)? What's your disciplinary history? What's your CRA risk rating? How long have you served? Are you up for consideration for 1170 (d) but the court hasn't acted on your case yet? If you're a DSL, do you have less than 12 months to serve? If you're a lifer with a 3 year denial and an AR already approved but the hearing date not yet arrived, point that out. Are you seeking compassionate release, but the process hasn't been completed? Have you received a terminal diagnosis, and been given a 12-month life expectancy from medical? Are you eligible to seek medical parole consideration?

All of these are factors that might put you in the spotlight for early release consideration. Make CDCR aware of them—sure, they can eventually work their way down to you, but cut to the chase, give them the info up front. No guarantee, but in these uncertain times, it pays to try everything.



## CHANGES AT LSA

We're on the move. Literally. To bigger offices. To accommodate our bigger mission, growing volunteer cadre and massive amounts of printing and programs!

In 10 years we've accumulated some pretty substantial files and archives of issues, more correspondence than we can count and more ideas for projects going forward than one room can contain. So, we're moving, still in Rancho Cordova, mailing address, phone and email won't change. By Aug 3 we'll be in our new digs, helped by a group of paroled lifers who are doing the 'heavy lifting' for us. Thanks guys!

Also changing—since we can't get into the institutions to present our workshops, we've converted both Connecting the Dots and The Amends Project into correspondence courses...for info, write and ask us. Yes, certificates are available for those who complete the courses.

Also—a word on the mental health projects we first discussed in the last newsletter. After our suggestion that inmates ask mental health at their location for the programs, dozens, dozens and dozens did. And for the most part, the reaction from MH was 'ho-hum.'

But—true to our word, we aren't walking away. We're making these courses, Anger Management and Depression, available to all who want them. And, we'll add a workbook on CoVid stress to boot. As a plus, the psychologists and clinical social workers who volunteer with us, professionals in their own right, will vet responses to these programs (yep, there's homework—these are real courses) and issue certificates of completion to those who do the work.

It's a daunting task—the entire packet is close to 100 pages in length and engenders not just time, but substantial expense in print and postage. So we've reached out, started a GoFundMe account to underwrite this effort, and made a way for friends and family to contribute the cost of the packet to get it to their loved one. The cost? \$10. The GoFundMe account is doing well, and friends and family have stepped up to the plate to get these worthy programs to those they care about.

Tell your family to check out our website, [www.lifesupportalliance.org](http://www.lifesupportalliance.org), for the path to get the programs for you, and if you're indigent—send us your info and you'll be included too. The first 200 packets have already been mailed, and we're getting more ready to go.

CDCR dropped the ball on this, but we've picked it up, and it's Game On.

Recap: send inquiries for correspondence courses to us, ask your family to help you get the mental health packet or just send your request and complete information, including housing assignment. We'll be back inside as soon as we can, but in the meantime, we're in touch.



## LOOKING AHEAD TO THE PAROLE CLIMATE

It appears that video conference parole hearings, having commenced on April 1 and still on-going, are having little effect on the grant rate, but perhaps are more impactful on the number of hearings held. And it appears those video-conference hearings will continue, at least through the latter part of August. That provision for continued video conference hearings was made official by order of Gov. Newsom, extending this process through Aug. 22.

In the weeks between April 1 and June 10, the BPH held 963 hearings, resulting in 329 grants, which equates to a grant rate of 34%, the same percentage of grants awarded by the board for the year in 2019. There were 212 postponements, 62 hearing waivers, 96 stipulations, 10 continuances and one tie vote.

Looking forward, to changes made to the parole process and system, changes are probably in the works via a budget trailer bill, which funds CDCR in all its aspects. The proposed changes are still not finalized, as the budget trailer bill, SB 118, has yet to be passed and was even in late July substantially modified.

First the changes; prior to the last week of July the bill carried a provision that would have modified the Elderly Parole Program to include those 50 years of age or older (currently the minimum age is 60) and 20 years of continuous incarceration (now set at 25 years). Although much conventional wisdom held that the trailer will, even with changes, would be approved, the changes to elder parole qualifications were stricken from the bill, thus meaning the bill retains its current perimeters.

Compassionate release, also known as consideration under 1170 (e), which has allowed the BPH to consider and recommend to courts recall of sentence for those inmates who are terminally ill and have 6 months or less to live, as certified by CDCR doctors is changing. SB 118 removes the board's review of compassionate release requests, those now going directly to the courts, and would allow those who have been diagnosed with 12 months or less to live to be considered.

Perhaps the biggest and in some ways most impactful change seems to be the proposed changes in the length of parole time, or 'tail', to be endured by those released, either by end of their determinate sentence or by parole. Currently, DSL (determinate sentenced inmates) have a variety of lengths, usually around 3 years. Lifers, however, depending on when their life crime occurred and the nature of that crime, are held in supervision for substantially longer. In general, with some exceptions for differing laws at the time of conviction and sentencing, those with a first degree murder conviction

have a 7 year parole tail, second degree murder merits a 5 year parole before consideration for discharge and other life crimes, by in large, have a 3 year tail.

Under the provisions in SB 118, for those released (under the language in the bill) on or after July 1, 2020, DSL inmates would have a maximum parole time of 2 years—and lifers—all lifers—would see a 3 year maximum parole length. Also included in the bill is a provision for both DSL and ISL (indeterminate sentence length, lifers) would be automatically reviewed for discharge after 12 months. This change is of monumental impact to lifers—and will, if enacted, save monumental amounts of money via lowered need for parole supervision—and thus parole agents. How this will impact those already on parole is not yet clear.

The bill also calls for codification of the administration's plan to close 2 prisons in the next 2 fiscal years, noting those targeted should be done with an eye toward those with high operational costs and costly infrastructure needs. No locations were pointed out, and there's considerable speculation on which prisons might be targeted, most leaning toward the older institutions that were long ago repurposed to prisons.

And lastly, in a move that defies understanding, funds for the POC, the Parolee Outpatient Clinics, now in every parole office, offering mental health services and help to any parolee who needs it, have been eliminated and the program closed—if the bill passes.

## **NEW PAROLE COMMISSIONER**

On July 14 Governor Gavin Newsom appointed Minerva de la Torre to a commissioner seat on the Board of Parole Hearings. De la Torre has previously served as a parole board commissioner for the State of Nevada Board of Parole Commissioners since 2018 and has been a licensed social worker since 2017. She must be confirmed by the Senate within the next year.

She was a licensed clinical social worker supervisor and veteran justice outreach coordinator at the U.S. Department of Veterans Affairs from 2013 to 2017. She also served as a parole agent I for the Division of Adult Parole Operations at the California Department of Corrections and Rehabilitation from 2008 to 2012. Prior to her involvement in the corrections system she was a mental health therapist at the Children's Bureau in 2009, a foster care social worker at Niños Latinos Unidos from 2002 to 2008 and an eligibility worker at the Los Angeles County Department of Public Social Services from 2000 to 2002.

She earned a Master of Social Work degree from California State University, Long Beach. Ms. de la Torre has yet to make her first public appearance, given that the BPH meetings are currently held by audio conference. She apparently (no official announcement, but absence says much) replaces Commissioner Brian Roberts, who had reportedly been planning on retirement.

## **HOW TO REACH US**

Our mailing address remains—LSA, PO Box 277, Rancho Cordova, Ca. 95741. Friends and family can reach us at (916) 402-3750 or by email at [staff@lifesupportalliance.org](mailto:staff@lifesupportalliance.org). More information available on our website, [www.lifesupportalliance.org](http://www.lifesupportalliance.org)