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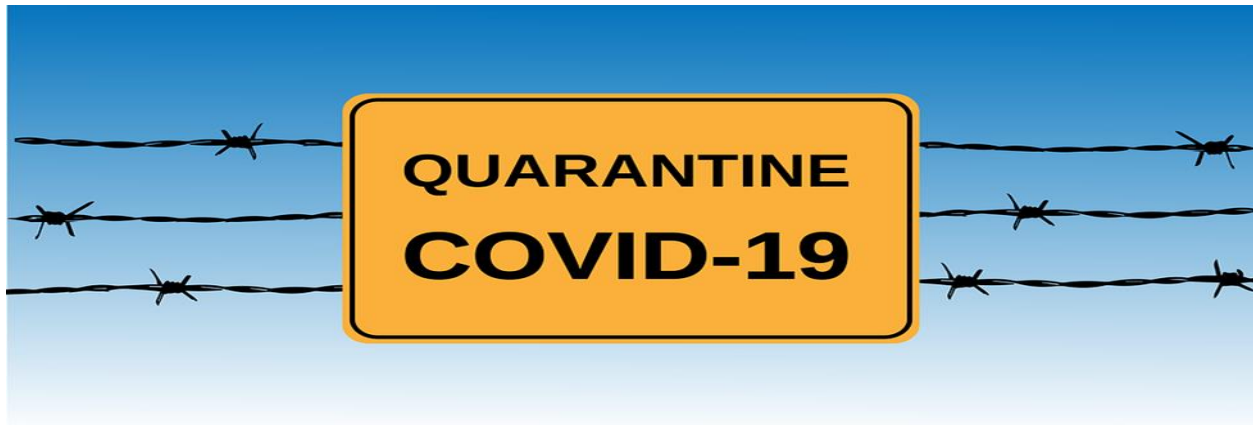
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THE CORONA VIRUS PANDEMIC IN PRISON

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

Where to start? Has it only been a month since the last newsletter, since there were only 9 prisons with CoVid positive inmates, 'only' 9 deaths in the system? How things change.

As we go to press this month 18 prisons, from Centinela to Pelican Bay have positive testing inmates and the total number of currently incarcerated individuals testing positive stands today, at this hour, at 2,582. Several prisons have rocketed to the top of the list and then seen the infection wane, to be replaced by another location in the streaking to oblivion race. It's a race no one wants to win, but several institutions can claim that dubious distinction in one area or another. And to date, there have been 21 deaths.

The largest number of fatalities has been suffered by CIM, and currently CIM is in third place in the number of over-all cases reported since the start, at 888. Top of the heap in the number of total cases reported is CVSP, at 1,012 and 1 death. San Quentin is second at 1,011 cases and Avenal comes in third with a total number of cases at 929 and 3 deaths.

San Quentin, currently the rising star in terms of swift increase in positive cases, is poised to take over first place, the vast majority of cases have appeared within last 14 days and that number increases by 50 or more each day. The CoVid tide is also rising at CCC, now with 213 cases. And while CIW has dealt with a total of 164 cases to date, that prison also saw the death of one person.

CDCR, which began CoVid precautions by shutting down visiting, programs and nearly everything else in an effort to at least stem the tide, has had successes and failures along the way. While most experts agree keeping the swift moving and highly contagious virus out of the prisons altogether was

probably impossible from the start, the department has made some good, if difficult decisions to limit the exposure of those incarcerated—but there have also been some pretty big unforced errors.

Top of that list was the court and medical receiver agreed to plan to move over 100 medically compromised men from CIM, at a time when CIM was nearly at its infectious peak, to San Quentin, at that time free of inmate cases. The idea was to prevent those who might be the most in danger from the effects of the virus from being exposed and provide a bit more room at CIM. A smaller contingent was also shipped from CIM to Corcoran. Almost immediately on arrival those new imports began testing positive for the CoVid virus, thus transporting the virus to both SQ and COR, where in short order numbers began to ratchet up. Things are also rising at CCC, where a few individuals from SQ were shipped in late June and where those men in fire camps who test positive are transported, if they test positive for the Corona virus, the camps not being equipped to provide medical care.

Are things slowing down? Well, in some locations, yes. But overall, it does not appear so. The number of prisons now experiencing positive cases for the first time, even in single digit numbers, has increased over the last week and that trend is expected to continue. Is CDCR doing everything it can to stop or slow the spread? That depends greatly on what's considered everything possible and whether or not you're a conspiracy buff. CDCR is doing thing they've never done before, being more transparent than anyone can remember, but what is enough?

Many individuals and organizations are calling for immediate mass releases—and let's get real here, the population of the prison system is not going to be halved in the next few weeks by releases. And for lifers, well, there are so many ways a lifer can legally be released and fear of contagious disease is not among those. And while CDCR is most comfortable when relying on "best practices," in this situation, there are no known "best practices;" everything is a best guess.

Some prisons are doing a better job than others of providing cleaning supplies, making sure staff wear masks and generally being pro-active in spread reduction actions—some just don't seem to care, including allowing staff to be lax or even defiant in masking up. And while certainly prisoners are at greater risk due to the highly contiguous nature of their housing, other precautions available to those inside are much like those available to us out here—masks, washing hands and being mindful of taking care of yourself.

As to what comes next, that's anyone's guess. Additional transfers from San Quentin, to provide more distancing in that more-tightly-squeezed than most prisons have, for the moment, been nixed, but the prospect could rise again, to the fear, frustration and bewilderment of everyone. If you are in an institution where masks are being ignored by staff, send us their names, or when and where they were on duty—we're happy to be the rats to point this out to CDCR in Sacramento—where masks are taken seriously and actions taken. You don't have to say much, just send us a name and we'll get the drift, or just drop a name to your family and have them contact us and we'll take it from there.

As scary as this whole situation is, as frustrating and confusing as it is, there are people out here, lots of us, who care about what happens to those inside, who are keeping track and making noise when things go wrong. You aren't forgotten, you aren't without advocates. Keep us informed of your concerns and we'll keep working on them.

But please, don't buy into the rumors that CDCR is intentionally spreading this disease to cause the death of inmates, that Sacramento has withdrawn the staff requirement to wear masks, that no one is paying attention. None of that is true.

We send daily emails to our members on the CoVid situation, along with as much backstory and context as we can find. And we'll continue to do so as long as necessary.



NEWSOM'S 21 COMMUTATIONS

Gov. Gavin Newsom issued 21 commutation of sentence and 13 pardons late in June. Pardons are available to those who have completed their prison term and are seeking to clear their record of incarceration. Commutations, used increasingly by former Gov. Brown and now Newsom, can modify and cut short the sentence of those still imprisoned.

In this batch of 21 commutations Newsom displayed again some patterns in how he views his power to commute sentences and impact the justice system. Of the 21 who received commutations, 8 had received a Life Without Parole (LWOP) sentence, 2 were determinate sentenced inmates and the rest were lifers, sentenced to terms from 40 to life to 25 to life. The majority, 15, were YOPH candidates, having committed their crime before the age of 16, one at the age of 14.

Most, 14 of the 21, were convicted of murder, three were women and while in no cases in this group of commutations did the Governor order immediate release of the individual, in 6 cases he ordered immediate parole consideration, meaning those men and women will see a parole hearing probably within 6 months.

In several other instances the Governor's actions mean many individuals will find themselves at parole hearings anywhere from 1-5 years in the future, often when there was no future parole hearing possible. Commonalities in those Newsom chose to commute were exemplary behavior while incarcerated, full participation in programs and, expression of remorse and acceptance of responsibility for their crimes and actions.

Always noted in the Governor's letter of commutation is his recognition that commutation does not equate with wiping out the effects or responsibility of the crime. In each letter the Governor notes, "The act of clemency for does not minimize or forgive the conduct or the harm it caused. It does recognize the work e/he has done since to transform [him/her] self"

WE LIKE YOU, BE WE DIDN'T TAKE YOU TO RAISE

Our mission here at LSA is to help lifers understand and become suitable for parole and to help their families navigate the labyrinth of CDCR, all with the goal of helping more lifers come home, so we've made many things available, tried to explain and dissect policy and law to make it understandable and provide a myriad of other helpful actions to prisoners and families. But we can't become the personal advocate, law clerk, researcher or handmaiden of individual prisoners or families. We can't review your trial transcripts (we aren't attorneys), we can't provide you with research on legal cases (try checking out California Lifer Newsletter) write your parole plan for you, or contact your family. Please don't ask.

We'll help you all we can, but---you personally are not more important than any of the other 250 men and women who write us each month, so we won't put them aside to concentrate on you. We're here to help, not babysit.



WHEN MENTAL HEALTH CHECKS OUT

Last month, when we wrote about the in-cell study courses that had been distributed to the mental health departments in each prison, we knew the demand for these programs would be substantial. And we KNEW these programs had been provided to each MH department—and we knew there would likely be some resistance to providing this help, given past experiences.

Which is why we listed how to find out about the programs, who to ask and added the provision to let us know if you couldn't access them. All of which has come to pass—most MH departments are denying knowledge of said programs, some have simply refused to step up to their responsibilities, often trying to shift that duty to wait for it—custody staff. Right, that makes sense.

So let us say again—each Chief of MH at each prison received at least 2 of the 3 packets via email. These materials are from CDCR, not an outside agency, home-grown, so to speak. We've now got quite a pile of letters from lifers and others who would like to continue their rehabilitation—but MH is blocking the way.

On the upside, we've also had contacts from clinicians in 8 prisons who have asked us about the courses—and in each case, we've forward to them ALL the materials we have. In a couple of cases we've heard back that while the clinician is willing to provide the material, their MH supervisor isn't. Go figure.

But—if you've been around LSA for any length of time, you know we don't give up. Already we've contacted Dr. Diane Toche, the Undersecretary for Health Care at CDCR—who quickly passed our concerns to Dr. Joseph Bick, the Director of the Division of Health Care Services. Dr. Bick's main concern seemed to be how the heck we got copies of these materials---the universe works in mysterious ways, Dr. Bick.

After that, radio silence. Which doesn't mean we've abandoned the effort---hardly. We're investigating ways (and we think we've found one) to provide the 2 courses we have, Anger Management and Depression to those who want it. And our efforts to get CDCR MH to step up to their J. O. B. continues and will likely escalate.

So the advice remains the same—first ask at your institutions' MH department about the courses, and if they deny knowledge or refuse, send us that info—we'll add you to the list of those we'll be sending the materials to. There are people above Toche and Bick, and that's where we're headed, as we noted to Dr. Toche,

“These are men and women who are desperately trying to make the most of the time they're spending in prison, when the self-help groups they depend on for their rehabilitation have been cancelled, with nothing provided in their place. How can CDCR, in particular the Mental Health division, turn their backs on these requests--yes, it will take a bit of time and resources, but there are no groups being

held now, could not those resources be re-purposed to fill this need? To simply leave those who are asking for help wanting, especially when that help is available, is unconscionable.”

Don't give up, we haven't and are making it part of our mission to see that these materials, which our contacts in the clinical and mental health world tell us are very good, available to everyone who wants them. There are a couple of possibilities in the works, we'll let everyone on our email list (your friends and family) know what route will be available, so continue to let us know if you're interested and we'll be in contact. Watch this space.



ON THE PAROLE FRONT

If budgetary and other considerations go as planned, lifers and other released inmates will be seeing a different Division of Adult Parole Operations (DAPO) very soon. Part of the change will be a 'new,' but not so new face in the Director's chair. Gov. Newsom recently appointed Guillermo Viera Rosa for a second round as the head of DAPO. Viera Rosa has been here before, for a hot minute (actually a few months) in 2017 before moving on to another post in CDCR. Viera Rosa must be confirmed by the Senate before he officially settles into the job.

But of bigger and more important news is the prospect of parole 'tails' be significantly shortened for most of those under DAPO supervision to a proposed 'cap' of 24 months. For most DSLs released on or after July 1, 2020 the max parole length, absent violations/new charges will be 24 months. And while this is for DSL, lifers may also be looking at a shorter parole cap, though details on that are not as clear just yet. And while these changes will impact those released after July 1, 2020 and is not automatically retroactive, there is potential for that to change as well, via the long-awaited earned discharge point system, details to follow—when they get them done. And lifers will get a review after 12 months on parole.

There are exceptions—290s and those with mental health issues or high risk COMPAS ratings. For those, the minimum tail will be 18 months review. It also excludes those who 'knowingly murder a peace officer.' There are also some legal minutia to take into consideration, but that's the gist of the new policy.

Elderly parole will be amended to include those who are 50 years of age and have served 20 years. This, however, will exclude 3Xers and those knowingly kill a cop. Legal challenges are expected, on at least the exclusion of 3Xers from elderly consideration. The new elderly hearings would not start until 2023, though screening for this will begin next spring. The change will impact 700+ individuals,

and for those 3Xers who have an elderly parole hearing already on calendar through 2022 under the elderly process from the 3-judge panel—those will continue as elderly hearings.

The change in time on parole for the majority of those on parole will likely result in a re-vamping of DAPO, as, once the shorter parole tail is in place, fewer parole agents will be needed. As these proposed changes flesh out and details become available, we'll be tracking both the potential impact on lifers and how and when it will be implemented.

THE OFFICIAL WORD—STRAIGHT FROM CDCR

The following information is taken directly from the CDCR website regarding precautions related to stopping the spread of the CoVid 10 virus. We are printing this to counteract all the rumors being floated in various institutions by various individuals and groups regarding the wearing of masks and other precautions.

CLOTH FACE COVERING

Staff and the incarcerated population are required to wear a facial barrier once a supply of five CALPIA reusable cloth barrier masks are distributed to each member of the incarcerated population and three per correctional staff member has been delivered to the institution. Staff working or performing duties on institutional grounds shall wear a facial barrier at a minimum. In addition, maintaining physical distancing requirements when moving about the institution for routine tasks is still recommended. These masks are not intended for direct patient care scenarios.

- *Once masks are delivered at their institution, the incarcerated population will be required to wear the CALPIA masks during the following activities:*
- *Any situation that requires movement outside of cell or while in a dorm setting.*
- *During interactions with other members of the incarcerated population such as yard time and canteen services.*
- *Movement to/from health care appointments.*
- *Movement to/from medication administration areas.*
- *The incarcerated population are permitted to keep their CALPIA masks upon their scheduled release.*

COVID AND PAROLE HEARINGS

BPH held 598 parole suitability hearings by video and telephone conference between April 1 and June 5.

These hearings resulted in the finding of 218 grants (36.5 percent) and 380 denials (63.5 percent). A total of 29 individuals chose to waive their hearing, 141 hearings were postponed, 60 stipulated to unsuitability, six were continued and one resulted in a tie vote

For all of 2019, BPH's at-hearing grant rate was 34 percent. Video conference hearings will continue through July, with possible extension of that policy depending on the CoVid situation at that time.