



## **115s BEHIND PRESCRIPTION DRUGS—WE'RE FIGHTING IT**

*Send us the documentation ASAP*

Following several reports from inmates at more than one institution that they received RVRs for prescribed drugs behind random UA tests LSA/CLN has taken up the issue with CDCR, the federal receiver's office and the state legislature. All agree slapping inmates, most especially lifers, with 115s for taking CDC prescribed medications is wrong on every level and there is interest in official circles in righting that wrong.

But we can't fight this battle on hearsay, he-said-they-said or anecdotes. We've got to have the documentation and so we are turning to our inmate audience to provide us with the tools to help us help you.

If you've been tapped for a random RVR, are taking prescribed drugs (and ONLY prescribed drugs) and received a 115 after testing positive, we need your paperwork. Send us EVERYTHING, from the 115 to any hearing decisions to any appeal actions pending or complete. Also any documentation available that you are prescribed the drugs that allegedly popped up in the RVR as well as comments or other information.

In short, just send it all to us and we'll sort out what we need. Send copies or originals, if originals you need back, please note so we can return them, and send them as soon as you can. And one more caveat: if you are augmenting your prescribed medications with anything else—we probably can't help you.

## **ARE YOU LOW? MEDIUM? EVEN HIGH ISN'T TOO BAD...**

*The good news: if you're low, you're the lowest of the low*

Prisoners are often described as being 'the worst of the worst,' a sweeping generalization we not only despise, but find totally inaccurate. But now comes word that for those lifers rated in their CRAs (psych evals) as 'low risk' are really the lowest of the low. And that's a good thing.

As explained to LSA by Dr. Cliff Kusaj, head of the Forensic Assessment Division (FAD), those kind folks who provide those little gems for you, all levels of risk assessed to lifers by FAD clinicians, are based on risk levels associated not with the general public, but risk levels as compared to other lifers. And as it turns out, lifers are even less risky, insofar as violent or illegal acts, than members of the general public.

Not that this is news to us; we've been touting this message for years. But in a recent meeting between LSA, Jennifer Shaffer, Executive Director of the BPH, Howard Moseley, BPH Chief Legal Counsel and Dr. Kusaj, the FAD director clearly laid out how those three risk levels should be understood. Keep in mind, the FAD reports recently went from 5 risk levels (low, low/moderate, moderate, moderate/high and high) to three, simply low, medium/moderate and high.

And while we've long questioned whether the BPH commissioners understood the definition of 'moderate/medium,' (normal or average) it now turns out that even we were not giving lifers enough credit. Dr. Kusaj noted (again, not news to us) that statistically lifers as a group present a lower risk of committing a crime or violent act than the general population as a whole. So that a lifer assessed with a 'moderate/medium' risk level is actually less likely to commit a crime or act out in a violent manner than the average person walking down the street.

Thus it follows that a lifer with a 'low' risk assessment is so far off the risk charts as to be virtually Milquetoast. And those with an FAD risk assessment of 'high' can still argue that even that level places them at a lower risk of offending than Joe Citizen.

According to Dr. Kusaj 80% of lifers are rated as low or moderate in the CRAs. Dr. Kusaj also assures us that the BPH commissioners are aware of this level of relativity—but we're not entirely convinced.

So here, straight from, if not the Oracle of Delphi, at least the Head of FAD, is the explanation on how CRA risk assessments should be viewed and interpreted.

## **EVAULATING YOUR STATE APPOINTED ATTORNEY**

It's almost time once again for one of those (infamous in some circles) LSA surveys, wherein we ask YOU, the ultimate end-user of CDCR 'services,' how they're doing. Yeah, we have a pretty good idea, but the whole point of the survey is to hone in on one area and get the facts, man, just the facts.

This time in the target zone are the state appointed attorneys. The recent change in the selection process for state attorneys brought in a whole new group of counselors, many of whom, at the time of their selection for a panel, had never done a parole hearing. Those new attorneys, as well as the hold-overs from previous years, have now had several months to show their stuff to you, their clients.

The next issue of Lifer-Line will feature a survey form asking questions on particular aspects of your interaction with your state appointed counsel, as well as your take on their performance, or lack of, at the hearing. We also hope you'll give us feedback in your own words on any part of the attorney-client process you found good or bad. And you don't have to use the survey form—just send us your comments. Also, ***please don't forget to include the name of the attorney***. Yes, we do get forms back without the name of the attorney included; not helpful.

A few words here: just because you were denied parole does not mean it was your attorney's fault. The responsibility to become suitable has always been and remains on the individual prisoner. But even if denied, your attorney could/should have been of help to you in preparing for the hearing as well as during the process. So start gathering your thoughts and pay attention to details during any interaction with your state counsel.

And we aren't the only ones who want to know- the BPH is interested in attorney performance as well. Chief Legal Counsel Howard Moseley has initiated his own version of three strikes, taking to task those state appointed attorneys who shirk their duties. But he has to hear of them first. If you'd like to file a formal complaint, just write Mr. Moseley in care of the BPH at Board of Parole Hearings, Post Office Box 4036, Sacramento, CA. 95812-4036.



### **WHERE WAS YOUR HEAD?**

Working on the theory that a more knowledgeable inmate is a better prepared inmate, and hopefully thus more likely to be found suitable for parole, LSA continues to try and provide our audience with as much information as possible. Our latest offering is prompted not only by the content of the material, but also our frustration at continually hearing parole panels, and the governor, ask prisoners why they committed their life crime or became involved in a bad-turning-worse situation.

While we suspect there is no real answer to that nebulous question, there is perhaps a way to achieve more (pardon the expression) insight into the 'why' of any given situation. And that way may be through understanding how the brain, most especially in adolescents, works---or doesn't. The BPH commissioners recently were treated to a presentation that was not only informative, but interesting, engaging and very on topic with respect to parole hearings. Presented by Dr. Jennine Hall, Lead Clinical Trainer for the Colorado Division of Youth Corrections (DJJ, Colorado style), the topic at hand was "The Adolescent Brain."

While Dr. Hall's report is too lengthy to reprint in its entirety in CLN we will be happy to provide a copy to those prisoners who request the report and are good enough to send either a SASE or a single stamp along with their request. It also includes a bibliography of books on the subject that might prove additionally useful.

Please send request, along with the appropriate postage, to us at P.O. BOX 277, Rancho Cordova, CA. 95741, with the notation "Dr. Hall" on the envelope. If YOPH applies to you, or even if you were just on the other side of 18 at the time of your crime, this report could provide you with additional understanding to assist you in developing the 'insight' the board looks for. And for once, you'll have a chance to see some of what the BPH commissioners are given as training.

### **100%+ FULL, BUT NOT OVERCROWDED?**

So just how overcrowded are California prisons, despite all the sound and movement generated by AB 109 and other measurers? Overcrowding, it seems, is a relative term, with the CDCR maintaining in reports to the three judge panel that they are on top of the problem and overcrowding is decreasing and on the way to being just a bad memory.

But, apparently someone forgot to tell the inmates still in California's 35 prisons (yes, that's right there are now 35 recognized prisons in California; and we thought the building was over), although at least a couple of institutions are reportedly under design capacity. Most institutions, however, are still showing numbers of inmates that, anywhere but in CDCR, would be considered unacceptably overcrowded.

First, the relative good news. California Medical Facility (CMF) is listed as being at 87.9% and Folsom Women's Facility (a wholly separate female facility housed on and under the auspices of Folsom State Prison) comes in at 97% of capacity. Reports, however, appear to indicate FWF won't stay at 97% much longer as new bunks are being added.

California Health Care Facility in Stockton, although showing an actual population of nearly 1,500 inmates did not report a percentage capacity, as new admissions to CHCF were halted recently by the federal receiver overseeing medical care when staffing and facilities at CHCF were found to be under acceptable limits. The department has reportedly initiated corrective action and expects to open an additional roughly 1,500 beds by the end of August, 2014.

Now for a reality check. Where are there more inmates, per square foot than anywhere else? Top of the heap 'honors' go to CCWF, at 3,716 inmates and 185.4% of capacity. On the men's side, Mule Creek at 173.8% (2,955), comes in first, followed closely by Wasco at 171.9% (5,130) NKSP 171.2% (4,613) and Calipatria at 167.9% (3,875) rounding out the top (bottom?) five.

Nearly half the institutions reported levels of 150% or more and even those that were below 150% were well over the 100% full mark. These included CMC, 111.6% (4,285), CRC, 112.7% (2,808) and Pelican Bay standing at 118.6% (2,822).

And although it appears that the department, reporting an overall population to design ratio of 141.1% as of early July, is in position to meet the Aug. 31, 2014 (extended by 2 months) deadline of 143% of capacity, it nonetheless doesn't appear the prison overcrowding crisis is over, despite what the Governor says. Prison officials point to the progress, again, a relative term, made in the last few

years in reducing the complete mess the California penal system was in, but few could argue the department and state are in the clear as yet.

## **FUTURE RELEASE; HOW FAR IN THE FUTURE?**

We continue to get letters and calls regarding those lifers already found suitable but given a future release date in line with sentencing requirements. Under terms of the 3 judge panel these lifers should be going home earlier than expected, the ONLY class of lifers that may get any sort of ‘early release.’

Although this provision of the population cap action plan will affect a relatively small number of individuals, it is of immense interest to those affected and their families who want to know how soon these lifers will be coming home. From the decision to review these cases and create a process for release until the time of the July compliance report a total of 11 inmates with future dates had been released. The process includes the following, once the inmates are identified:

*“The State will then review disciplinary histories as they may affect eligibility or warrant a rescission hearing. As part of the verification of eligibility, the State will identify any outstanding holds, detainers, warrants, or Thompson terms. The State has identified the following procedure for releasing eligible inmates: update and verify their parole plan, document the decision, and draft and issue a memorandum to institutions. Institutions will then process the inmate for parole.”*

In other words, each case is being looked at, parole plans checked to make sure they are valid earlier than originally planned, all applicable parties notified—and voila! The gates open. As to when each individual case will be evaluated, that depends largely on when the future date is, the case load of those doing the reviewing and the speed with which all the relevant factors can be confirmed.

To those waiting on these decisions, we can only say try to be patient. You know you’re going home, and earlier than planned. Count your blessings, take a deep breath and your time will come. There is nothing you or your family can do to hurry the process. Just be sure you keep yourself safe from any events that could endanger your release.

## **THE TAKE FROM INSIDE**

Lifer, and statistician, Michael Brodheim gave close scrutiny to the Board’s published parole hearing results for the 1st quarter of 2014 and provided us this “insight” into what’s going on.

To understand these numbers, we first define the categories of results into grants, denials, stipulations, waivers, postponements, cancellations, and continuances. Stated more simply, a great number of scheduled hearings do not result in either a “grant” or a “denial.” For example, for the 1st quarter, of 1180 hearings scheduled, 629, or roughly only 53% went on to a grant or denial conclusion. Of those 629, 244 were found suitable – 38.8%! Stated on an annualized basis, the grants amount to a rate of 990 per year.

The 385 denials amount to a rate of 61.2%. This surely is not the situation we've seen in recent years of a 98 - 99% denial rate, and is attributable to the new leadership at the top of the BPH, who, as attorneys themselves, have professionally chosen to follow the law, and case law, on lifer paroles.

But there is more to learn from the numbers. First, what is the meaning of stipulations and waivers? In most part, it is a concession by the parole candidate that he/she concedes they are not likely to be found suitable, possibly because of a recent 115 or other factor the Board would likely deny them for. In fact, the average stipulation was for 3.9 years, while the average waiver was for 1.7 years. Compared with the average denial for those who went through with their hearings, these numbers are better than the average denial interval of 4.4 years.

Then there is the "who" data. The number of grants, by CDC index letter, were: W# - 19; B# - 13; C# - 47; D# - 36; E# - 21; G# - 2; H# - 29; J# - 34; K# - 24; P# - 11; T# - 1; F# - 1.

From yet another perspective, one can determine the average hearing number where parole was finally granted. The average grant came at the 6th hearing; the median grant was at the 5th hearing.

As to the type of crime, for those granted parole, 82.4% were for murder (i.e., subject to Governor reversal), with the balance of 17.6% for other than murders. Which gets us to the last number, one not a "Board" statistic, namely, the Governor's reversal rate. That stands at about 20%. If this holds true for all of 2014, of about 800 murder-lifers that could be found suitable, perhaps 640 or so will go home this year.

## SCENES FROM LSA'S HAWTHORNE SEMINAR

Our on-going series of seminars for lifers' families, "Doing Life as a Family," took us to Hawthorne, Ca. in July, where super-volunteer Joyce Steward (left in first picture) helped make the day a huge success. Also pictured in left photo are LSA Director Vanessa Nelson-Sloane, Hawthorne Councilwoman Angie Reyes-English (second from right) and LSA Co-Director Gail Brown (far right). Councilwoman Reyes-English spoke to the crowd of 60+ family members expressing her support for reentry and aided LSA greatly by providing both the venue and lunch for participants. Our great thanks and gratitude to Joyce and Councilwoman Reyes-English.

