



# MI-CURE NEWS

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## PRISON PHONES

In December, Congress passed and the President signed S. 1541, The Martha Wright-Reed Just and Reasonable Communications Act which authorizes the Federal Communications Commission to prevent exorbitant rates and fees for interstate and intrastate phone calls and video calls from the nation's jails and prisons. Sponsors of the bill were Representative Bobby Rush and Senator Tammy Duckworth. Advocates have been working more than ten years to pass this legislation.

Among the organizations applauding this new law were United Church of Christ's Media Justice Ministry, International CURE, Color of Change, Worth Rises, Free Press Action, The Leadership Conference on Civil and Human Rights, The National Consumer Law Center, Public Knowledge, and Benton Institute for Broadband and Society. Sakira Cook, Vice President of Policy & Government at Color of Change, was one who weighed in on the importance of this development, "It is vital that we end carceral profiteering once and for all. Prison-telecommunications services profit from vulnerable families trying to stay in touch with their loved ones, generating \$1.4 billion annually. Today, after over a decade of advocacy, lawmakers made an important stride in addressing profiteering in our prison systems...."

*Source: "Advocates Applaud Passage of the Martha Wright-Reed Just and Reasonable Communications Act of 2022," Press Release, December 22, 2022*

## PRISON CAMERAS

### Massachusetts

The Massachusetts Department of Corrections recently began a pilot program with approximately 50 corrections officers wearing body cameras. The program at the maximum-security Souza-Baranowski Correctional Center is intended to "enhance 'communication and collaboration' among DOC staff, support better interactions between inmates and corrections officers, and bolster transparency and accountability at DOC facilities." The first phase of the pilot will assess the technology needed, which style of camera works best, and the types of interactions that occur between officers and inmates. The second phase will focus on operational implementation.

DOC Commissioner Carol Mici reportedly said, "The use of this advanced technology in correctional settings has been

shown to improve safety, provide valuable documentation for evidentiary purposes, resolve officer-involved incidents, and offer a useful training tool for the Department and its officers."

## Cameras in Federal prisons

President Biden recently signed the bipartisan Prison Camera Reform Act. The act is in response to staff sexual abuse, inmate escapes, and high-profile deaths, and will require the federal Bureau of Prisons (BOP) to overhaul outdated security systems and fix broken surveillance cameras. The new law requires the BOP to complete the following:

- evaluate and enhance security camera, radio and public address systems at its 122 facilities.
- submit a report to Congress within three months detailing deficiencies and a plan to make needed upgrades.
- implement those upgrades within three years and submit annual progress reports to Congress.

The federal correctional workers union (the Council of Prison Locals) supported the bill.

*Sources: "Body camera pilot program begins at Shirley prison," Boston25News, November 28, 2022; "Bill forcing feds to fix prison cameras is signed into law," by Michael R. Sisak, Associated Press, December 27, 2022*

## PRISON PROGRAMMING

In the last couple of editions of *MI-CURE NEWS*, we have highlighted some unique prison-based programs from throughout the country. We are pleased to be able to share information on additional programs. As noted before, we believe that programming is important, and should be available to everyone who is incarcerated. We think it is encouraging that so many of these programs involve "partnerships" with outside organizations.

### Flag Boxes

For several years now, men at the Northern Correctional Center in West Virginia have been producing flag boxes to be presented to the family at local military funerals. The Moundsville Veterans Honor Guard raises the money to pay for the supplies needed to produce the boxes. The program, supported by the West Virginia Department of Education and West Virginia Schools of Diversion and Transition, has produced more than 500 flag boxes.

## RV Repairs

Women at the Woodman Unit of the Texas Department of Criminal Justice are learning to be recreational vehicle (RV) technicians—a job in high demand with good earning potential. During the 4-5 month program, they learn to repair electrical, plumbing, propane, and refrigerator systems. They are also taught how to perform pre-delivery inspections. Participants receive certificates for passing tests, which help them to get jobs. One graduate of the program proved to have more knowledge and skill than the workers at the company. She is now helping to train them.

## Restoring damaged habitat

Men at the Warner Creek Correctional Facility in Oregon have been planting and harvesting sagebrush and bitterbrush plants as part of the Sagebrush in Prisons Project. The project is a partnership between the facility and the Institute for Applied Ecology. The plants will replace those that have been wiped out by fire in several areas. They are needed to support the habitat and food supply of multiple species. This year, the group grew approximately 60,000 plants. Some of the plants will be sent to Idaho, as well.

Funding was provided by the Bureau of Land Management, the Oregon Hunters Association, and the Roundhouse Foundation. There are about ten individuals working on the project, the oldest of whom is 81. Representatives of the Institute for Applied Ecology lauded their efforts. “I’m always so blessed by the hard work these guys put into this. They nurture these plants—they’re invested.” “I’m learning as much from them as they are from me.”

## Cloud Computing Certification Program

A new program inside the Washington, D.C. jail is providing individuals with a certificate in cloud computing. The three-month program is led by APDS and Amazon Web Services and ends with the AWS Certified Cloud Practitioner exam.

ADPS is a public benefit corporation dedicated to helping incarcerated individuals prepare to make a living wage after serving time. The corporation currently delivers programs to residents of 120 correctional facilities in 17 states.

Amazon has made a commitment to invest hundreds of millions of dollars to provide free cloud computing skills training to 29 million people by 2025.

## Tree Trimming

DTE Energy is working with the Michigan Department of Corrections to train incarcerated people to trim branches around power lines. The work is part of a \$70 million plan to improve the utility company’s electric infrastructure. Fallen trees and branches are the cause of 70% of power outages.

DTE contracts with other companies to perform this work. Graduates of the program will be qualified for employment

with one of those companies. Since the program began in 2019, 25 people have graduated. One is now an instructor for the program as well as a certified arborist.

*Sources: “Flag boxes made at correctional center gifted to families of veterans,” by Kathryn Ghion, GTRF, November 1, 2022; “Instructor helps prison inmates learn RV repair skills,” by Jeff Osborne, The Gatesville Messenger, November 1, 2022; “Warner Creek Correctional Facility sagebrush project helps restore habitat,” by Danielle Jester, Lake County Examiner, November 9, 2022; “This AWS Cloud certification program opens new paths for inmates,” by Amazon Staff, Amazon, December 14, 2022; “Michigan program trains prisoners to trim around power lines,” by Corey Williams, AP News, January 6, 2023*

## SEX OFFENDER REGISTRATION ISSUES

### Latest Update from Does III Legal Team

“As we explained in our last update, the (Does III) case is in “discovery” where both sides are able to get information from the other side in order to prove their case. The Court has now set a schedule for this discovery. There are a series of internal deadlines for different types of discovery, as well as for the Court to rule on any disagreements, such as if the state won’t give us documents that we need. There are also deadlines for expert reports. Discovery closes in mid-April 2023, although it is quite possible that this date will get moved back. We are scheduled to be back in front of the Court in May 2023 to discuss how the case will move forward from there. The earliest we are likely to see a decision is next fall (2023). We know that this is a long time for everyone to wait, and we also know that there are no firm deadlines so it could be even later. We understand that you may be frustrated that the case is not moving faster. The schedule here is set by the Court, and litigation is, unfortunately, a slow process. On the positive side, we anticipate getting a “final” rather than a “preliminary” decision from the Court, and we will have been able to develop a very strong record for the case. This is a critically important case, and so the Court wants to make sure there is the time for it to be fully litigated. Thank you all for your patience.”

*Source: email “Update from the legal team,” by Miriam Aukerman, ACLU of Michigan, November 11, 2022*

### Man with sex offense conviction can practice law in Washington State

The Supreme Court in Washington State has ruled that a man whose name appears on a sex offender registry can practice law in the state. The court noted the individual’s relative youth at the time of the offense and the fact that he has demonstrated “good moral character.” Justice May Yu wrote, “Like all of us, (he) is more than the sum of the worst moments of his life. As an adult, he has abstained from engaging in any unlawful conduct since 2013. In that time, he has graduated from college and law school, he has been steadily employed, and he has developed a supportive network

of friends and family.” The state of Arizona had previously rejected his application to practice law.

*Source: “Sex offender can become Washington state lawyer, court rules,” by Gene Johnson, Associated Press, November 3, 2022*

## RETHINKING BAIL

### Shelby County, Tennessee

Under Tennessee law, money bail is to be required as a last resort. The U.S. Constitution requires bail hearings within a reasonable time frame, with representation by an attorney, and with consideration for individual circumstances – including ability to pay. Despite these requirements, people accused of crimes in Shelby County, TN were being held for weeks without a bail hearing – most had no hearing at all. Ability to pay was not a factor, which left many in jail indefinitely

Following intervention by the American Civil Liberties Union, the American Civil Liberties Union of Tennessee, Just City, and The Wharton Law Firm in partnership with Stand for Children Tennessee and the Official Black Lives Matter Memphis Chapter, negotiations began with a number of county judicial and government officials, the ACLU now reports that the county “has created a bail process that will make the county’s system one of the fairest in the nation.”

The county is creating a new bail hearing courtroom. No later than three days after an arrest, a person will have an individualized bail hearing with an attorney present. The individual’s financial circumstances will be reviewed and money bail will be required only as a last resort. Judges will make individualized decisions in each case.

Andrea Woods of the ACLU remarked, “These much-needed improvements are a testament to the power of local officials, advocates, and community members working together to solve a problem.” Josh Spickler of Just City believes, “We will soon have a smaller jail population, safer streets, and significant cost savings as a result.” Willie F. Brooks, Jr., chairman of the Shelby County Board of Commissioners noted, “These forward-looking solutions reflect growing evidence that supportive interventions, rather than incarceration, promote positive outcomes in most cases.”

### Illinois

In January, the state of Illinois eliminated cash bail entirely. Instead, judges will determine whether to hold someone in pretrial detention or release them on their own recognizance. According to the text of the new law, “Detention only shall be imposed when it is determined that the defendant poses a specific, real and present threat to a person, or has a high likelihood of willful flight.” In order to hold someone, the court must hold a hearing and must explain the reasoning in writing. If someone is held in pretrial detention, there must

be periodic hearings to determine if circumstances have changed.

*Sources: “Shelby County Reforms Bail System,” ACLU Press Release, August 25, 2022; “No More Cash Bail in Illinois? Here’s What We Know About the Changes Coming Soon,” NBCChicago.com, September 16, 2022*

## TREATING OPIOID ABUSE IN JAILS AND PRISONS

Opioid abuse is prevalent among individuals incarcerated in the U.S. Within the first two weeks of leaving prison, individuals are as much as 40 times more likely to die from an opioid overdose than the general population. For decades, medications such as buprenorphine and methadone have existed to treat the use disorder, but jails and prisons have avoided using them. That is beginning to change.

The state of Maine is being cited as a positive example of a system treating the disorder. Forty percent of Maine’s prison population is receiving drugs to treat opioid use. Since the program started in 2019, overdose deaths for people leaving prison have dropped 60 percent. Violence and suicide attempts have reduced considerably. Anyone diagnosed with an opioid use disorder is offered voluntary medication and counseling, regardless of his or her out date. Those leaving prison are given naloxone (which reverses an overdose) and fentanyl test strips, to detect whether opioid is present in other drugs.

“Universal access to medication for opioid use disorder started in Maine’s prisons in August 2021. Today, the program, budgeted at \$3.3 million for this year, has fundamentally changed the atmosphere at Maine State Prison, residents and prison staff say. The black market for drugs has dried up. There are fewer fights and fewer suicide attempts. The security staff and residents get along better. More (incarcerated people) are enrolled in college and thinking about what’s next...”

Rhode Island actually began offering universal treatment earlier than Maine – in 2016. It offers all three FDA-approved medications (Buprenorphine, methadone, and naltrexone) to all residents in need.

The Justice Department has issued official guidance stating that people on medication for the disorder are protected by the Americans with Disability Act (ADA). In response to litigation, courts have ruled that jails and prisons must continue medication as they would with any other disease.

In January, the Office of National Drug Control Policy released the first-ever guidance to help correctional facilities evaluate their medication assisted treatment programs. The Biden administration wants to increase the number of jails and prisons offering medication for opioid use disorder by 50 percent in the next two years.

There are two primary objections to this new approach. One is that correctional systems have been fighting opioid smuggling and use for years. This is a major change for staff.

It also raises concerns that the drugs may be diverted and sold in the facility's black market. Claire Wolfe, a program manager at NCCHC Resources, a non-profit entity that advises jails and prisons on their health care systems responds, "It does happen, but the benefits of medication-assisted treatment overwhelmingly overshadow the risk."

The other objection is the cost. Some funding is available through federal grants from, for example, SAMHSA, the Bureau of Justice Assistance, and the Centers for Disease Control and Prevention. There is also hope that the new federal guidance will inspire state and Congressional investments.

*Source: "Maine's Prisons Taught Washington a Crucial Lesson in Fighting Opioids," by Krista Mahr, Politico, January 8, 2023*

### MICHIGAN INDIGENT DEFENSE UPDATE

Michigan's department of Licensing and Regulatory Affairs (LARA) recently approved a new standard for the state's indigent defense system. As recommended by the Michigan Indigent Defense Commission, attorneys who represent indigent defendants will now be paid a minimum of \$100 per hour, with rates as high as \$120 per hour for cases involving more serious charges. Under the rule, the cost of experts and investigators will also be reimbursed. Also included in the new standard are the following:

- Legal counsel must be present at all critical court appearances
- Each year, indigent defense attorneys must have at least 12 hours of training relevant to representing indigent clients
- Counsel must meet with indigent clients in a timely manner in a place that ensures confidentiality

LARA Director Orlene Hawks observed, "By adopting this standard, we remove the financial deterrent for public defense and replace it with a model that invests in our most vulnerable citizens providing quality services and breaking down long-standing barriers that have prevented those whose liberty is at stake from getting the help they deserve."

Local indigent defense offices now have 180 days to submit preliminary plans to comply with the new rule.

*Source: "State rule would guarantee public defenders at least \$100 an hour," by Rick Pluta, Michigan Radio, October 28, 2022*

### PARDONS AND COMMUTATIONS

#### Michigan

Governor Gretchen Whitmer recently pardoned four people who had completed serving their sentences. The four are Jason Boyd Johnson, Leslie Fontain King, Frank Rodriguez, and Sharif Ribhi Shamroukh. She also commuted the sentences of 18 people, including: John Eric Aslin, Antwon

Lamont Biffle, Jimmy Burden, LaDon Demarco Cloud, LaDonna Renee Cummings, Lawrence Dantzler, Alvin Antonio Jones, Willie Roderick Kincaide, Michael Landers, Monica Lateace McCain, James Michael McClain, Keith T. Robinson, Hugo Loaiza Rodriguez, Raymond Saenz, Jr., Brian Deangelo Sanders, Eboni Renee Spight, Lu Anne Szenay, and Donyelle Ferdinand Woods.

#### Oregon

Governor Kate Brown recently commuted the sentences of all 17 people on the state's death row. The sentences will be changed to life without parole. Oregon has not executed any one since 1997. When she was elected in 2015, Brown announced that she would continue the death penalty moratorium imposed by her predecessor. Relative to her recent action, Brown stated, "This commutation is not based on any rehabilitative efforts by the individuals on death row. Instead, it reflects the recognition that the death penalty is immoral. It is an irreversible punishment that does not allow for correction."

During her tenure in office, Brown commuted a total of 104 sentences and granted 130 pardons.

#### Pennsylvania

Governor Tom Wolf recently pardoned 369 individuals, bringing the total during his administration to 2,540 – the most ever by a Pennsylvania Governor.

*Sources: "Whitmer Grants First Pardons of Her Term," Gongwer, December 22, 2022; "Oregon governor commutes all 17 of state's death sentences," by Andrew Selsky, Yahoo!news, December 13, 2022; "Gov. Kate Brown ends term with flurry of commutations, pardons; calls clemency a chance 'to save lives,'" by Noelle Crombie, The Oregonian, January 14, 2023 "Rapper Meek Mill is pardoned by Pennsylvania Gov. Tom Wolf," by Zoe Sottile, CNN, January 13, 2023;*

### CHALLENGE TO NEW YORK CITY JAIL MAIL POLICY

Last year, the New York City Board of Corrections announced that it would hire a contractor to digitize all non-legal mail sent to people in jail so it could be delivered via electronic tablets that would be supplied by the department. In a recent opinion piece, Stephanie Krent of the Knight First Amendment Institute at Columbia University argued against the policy that will deny people original cards, drawings, and letters.

"Physical mail offers a kind of intimacy that other forms of communication cannot." It is important for people to hold onto something that was held by a family member or friend. It is important to revisit notes and drawings, especially during stressful times. It can help people to transition back to the community. "(S)ocial science research shows that physical

objects like letters carry emotional and expressive meaning that their digital counterparts do not.”

Krent noted that the department has suggested that the policy will not compromise people’s privacy rights, because its policies prohibiting reading of incoming mail will not change. But, she points out that once the mail is scanned, it will remain in a searchable database. “Most contractors explicitly advertise mail digitization services as surveillance tools. Securus Technologies, a private telecommunications contractor for correctional facilities, states that its mail digitization service ‘dramatically improves investigative intelligence,’ and Smart Communications, another contractor, markets its service as offering ‘a searchable database and... whole new field of intelligence.’ These contractors typically pledge to retain electronic copies of mail for years, if not indefinitely.... It’s no surprise, then, that when faced with similar measures in other prisons across the country, some family members and incarcerated individuals have limited or stopped their correspondence with loved ones.”

The NYC DOC is claiming that the new policy is needed to combat drug use and overdoses. In fact, there is little evidence that drug-laced paper is a substantial problem in jails and prisons. In a recent trial, a DOC investigator testified that drugs “usually” come in through staff. “In Pennsylvania and New Mexico – states that banned physical mail – drug test positivity rates actually increased after the adoption of the new mail policies; in Missouri, monthly drug overdoses did.”

“There is no trade-off between reducing drug use in city jails and encouraging free expression and family connection behind bars. Mail digitization does little to promote the former, but irreparably damages the latter.”

*Source: “Opinion: NYC’s nightmarish plan to prohibit physical mail in jails should be abandoned,” by Stephanie Krent, NYNMEDIA, January 9, 2023*

### IMPROVING MENTAL HEALTH CARE IN MASSACHUSETTS PRISONS

Two years ago, the Justice Department’s Civil Rights Division and the Massachusetts U.S. Attorney’s Office produced a scathing report criticizing treatment of mentally ill people incarcerated in the state. In December, Massachusetts prison leaders entered into an agreement to address those issues. Under the agreement, the state will do the following:

- Improve policies and training related to mental health care
- Ensure that individuals suffering a mental health crisis receive three daily mental health contacts
- Ensure that support staff interact with individuals on a mental health watch
- Develop an “Intensive Stabilization Unit” to provide treatment for those on extended therapeutic supervision who do not meet the requirements for in-patient hospitalization
- Provide better documentation of increasing mental health treatment

- Appoint Dr. Reena Kapoor, associate professor of psychiatry at Yale School of Medicine, as an independent monitor.

In addition, the Department of Correction’s mental health director will have a role in determining the cell conditions and privileges for anyone on a mental health watch.

*Source: “US, Massachusetts prison officials strike mental health deal,” by Steve LeBlanc, Associated Press, December 20, 2022*

### THINKING ABOUT CRIMINAL DEFENSE

Radley Balko recently engaged in a discussion with longtime defense investigator Andrew Sowards that covered many issues related to criminal defense work. We think it is worth sharing Mr. Sowards’ views.

Defense investigation should be its own profession. The job would be to ensure the government is accountable and that everyone gets a fair trial. There should be fundamental training for individuals interested in the work.

Defending someone does not necessarily mean proving innocence. It may be that someone is overcharged or is not guilty of all charges. Or it may be that the crime is not as serious as portrayed.

You are a better attorney when you actually care about your client’s well-being. Some attorneys want to win on the law. “They don’t understand the humanity involved in these cases, the stuff beyond the law. They don’t take the time to know and understand their clients. They don’t try to empathize. So they just don’t get it.”

Juries don’t make decisions based on a law-school understanding of the law. Juries make decisions on gut emotions.

There is real value to a team approach to criminal defense – a team of specialists. That team should include a good lawyer, a good investigator (preferably not an ex-cop), a good paralegal (very important), and a mitigation specialist or social worker. Every client is different and cases have to be individualized.

“Mitigation matters.... (I)t’s not just for a particular client and a particular sentence. I think it’s about helping to change the public’s view of crimes and why people commit them.”

*Source: “On broken brains, a broken system, and burning it all to the ground,” by Radley Balko, Substack.com, January 3, 2023*

### THE INNOCENCE PROJECT’S VIEW OF THE YEAR AHEAD

In September, Christina Swarms began her third year as Executive Director of the Innocence Project. As she did so, she took time to write about the past year, express concerns

about recent court rulings, and describe plans for the year ahead.

In the past year, the Project helped to free or exonerate 10 people who had been wrongfully convicted and helped prevent the execution of three people. They also helped to pass “pioneering” laws in Delaware, Oregon, Utah, and Indiana.

Two U.S. Supreme Court rulings could make their work more difficult. “*Shinn v. Ramirez and Jones*, closed the federal courthouse doors to evidence of ineffective assistance of trial counsel – attorney errors that prevented juries from hearing evidence of innocence – that was not first presented to state courts due to the incompetency of state post-conviction counsel.” “In June, the Supreme Court ruled in *Vega v. Tekoh* that the police cannot be sued in federal court for failure to give Miranda warnings – advising of the right to remain silent and the right to an attorney – to people in custody.”

The Innocence Project’s new initiatives include the following.

“Deepening our commitment to addressing racial bias in the criminal legal system by ensuring that our intake procedures surface cases where racism contributed to the wrongful conviction of an innocent person, our litigation strategies take into account the latest law and science on racial bias and discrimination, our social work policies and practices are informed by the unique challenges posed by discrimination and unconscious bias and our policy and education campaigns – including our commitment to evaluate and challenge emerging technologies such as facial recognition software – contribute to dismantling systemic racism.”

Include some non-DNA cases, since there is no biological evidence in most violent felony convictions.

Through the scientific literacy program, educate attorneys and judges on the limitations of forensic evidence.

Continue pushing for greater accountability in policing. Work to make police disciplinary records available, ban qualified immunity, promote civilian oversight, and ban police deception in the interrogation of children.

She also challenged voters to do their part by using their votes wisely. “Every person who seeks to hold a public office that has influence over the administration of the criminal legal system should be required to set forth a detailed plan for ameliorating arbitrary disparities, holding systems and actors accountable and addressing the problem of wrongful convictions.”

*Source: “The Fierce Urgency of Now,” by Christina Swarns, The Innocence Project, September, 12, 2022*

### COMMISSION TO OVERSEE ARIZONA PRISON SYSTEM

Arizona Governor Katie Hobbs has announced that she will create an independent prison oversight commission. Members

will include members of the state House and Senate, a representative of an “inmate advocacy organization,” someone with a background in rehabilitative programming for incarcerated people, two people who were formerly incarcerated in Arizona, individuals with medical and mental health care experience, a family member of someone recently incarcerated, and a representative of correctional workers. The commission will have the power to inspect prison facilities and records and interview staff and incarcerated people.

A federal judge recently ruled that the department’s health care system and conditions of confinement were unconstitutional. The governor has said, “I don’t think there’s any disagreement in here that there has been a lack of transparency into these really serious corrections issues, and a lack of real urgency to deal with that and change the way that we’re treating folks that are in our custody in the state.”

Hobbs recently named a new Director for the department who will begin work January 30. She noted, “Incoming director Ryan Thornell cares about transparency and it’s one of the main reasons he’s the right person to tackle these types of problems. But, he’s going to need the support of community as well...”

The meetings of the oversight commission will be subject to the state’s open meetings law. They are to produce a preliminary report by November 16, 2023 and annual reports after that. All reports will be shared with the public.

Michele Deitch, director of the prison and jail innovation lab at the University of Texas at Austin, praised the proposal. “This is a fantastic development, and the governor deserves a lot of credit for recognizing the importance of having independent oversight of our prisons.”

*Source: “Reformers applaud Hobbs’ plans for an oversight commission for troubled Arizona prisons,” by Jimmy Jenkins & Stacey Barchenger, Arizona Republic, January 25, 2023*

### SHORTS

**DC Council Working to Revise Criminal Code:** The District of Columbia Council recently completed a 16-year effort to revise its criminal code. The Sentencing Project summarized the proposed changes in the following list:

- Eliminating almost all mandatory minimum sentences
- Lowering the maximum sentence possible to 45 years in prison
- Expanding DC’s current second look law, which allows people who committed a crime below the age of 25 to petition for resentencing after serving 15 years to allow judges to consider resentencing after 20 years of imprisonment for people who were older at the time of the crime
- Reducing the scope and maximum penalty for felony murder, a law that holds people liable for murder if

they participated in a felony that resulted in someone's unintentional death

Mayor Muriel Bowser vetoed the proposed legislation. On January 17, 2023, in a 12-1 vote, the council overrode that veto. Now, the bill goes to Congress for a 60-day review period where it could be overturned or modified. The law would not take effect until October 2025.

Sources: "Yesterday the District of Columbia made history," *The Sentencing Project*, November 16, 2022; "D.C. Lawmakers Override Bowser's Veto of Criminal Code Rewrite, Decry 'Fear-Mongering' Around Bill", by Martin Austermuhle, *DCIST*, January 17, 2023

### **New York Considers Changes to Sentencing Practices:**

Former Federal Judge Nancy Gertner recently authored an opinion piece in the *Times Union*, in support of proposed legislation in the state of New York. She wrote the following about the pending bills:

"The Eliminating Mandatory Minimums Act is a critical step toward ending the coercion of plea deals and allowing judges to make individualized determinations based on facts of the case at hand. This legislation would allow judges to consider mitigating circumstances and vest sentencing power with judges – not prosecutors.

"The Second Look Act would allow incarcerated people to petition for resentencing. Judges could revisit overly long sentences where appropriate. In so doing, we could address decades of unjust sentencing that devastated families and communities.

"Finally, the Earned Time Act encourages incarcerated people to seek out education, employment, and rehabilitative programs while serving their sentences. This bill rewards incarcerated people who are actively working to become contributing members of society by allowing them to earn good-time and merit-time credit. Incentivizing participation in programs is an essential step toward building a world where people come out of prison better prepared to be assets to our community than when they were sentenced."

Source: "Commentary: A former judge's call to eliminate mandatory-minimum sentencing laws," by Nancy Gertner, *Times Union*, January 8, 2023

**Incarcerated People Should Vote:** In a recent *Chicago Sun Times* opinion piece, Avalon Betts-Gaston argued for passage of SB 828, which had been introduced in Illinois to allow people incarcerated in jails and prisons to vote. She had served time in prison for a crime she claims she did not commit. Upon her release, she began advocating on reentry and voting issues. She makes a number of interesting arguments.

"Research shows that 76% of Black women who are incarcerated serve as the primary caregivers for their children. Thousands of Black mothers in Illinois, who know their children's needs best, are being cut out of important decisions that impact their children – from public safety and gun

violence to access to clean water and parks. These aren't theoretical issues, either.... For my children, Black and residents of the Chicago area – voting for their safety, schools, and investment in their futures is vital."

She also counters the argument that most incarcerated people don't want to vote. "Anyone who has been incarcerated will tell you that the three biggest nights in the TV room were movie night, championship night, and election night." Stand Up America and other progressive organizations recently completed a poll that shows the majority of voters believe voting should be a guaranteed right for all citizens 18 and older, including those who are incarcerated.

Source: "Voting rights for the incarcerated should be restored in Illinois," by Avalon Betts-Gaston, *Chicago Sun Times*, December 3, 2022

### **Arnold Ventures Will Fund Prosecution Research:**

Arnold Ventures recently announced that it will provide \$7.4 million in research grants to study prosecutor office policies and increase awareness and insights into decisions made by prosecutors. The funding will support the following 14 projects:

1. Effective and Just Prosecution
2. Drivers of Prosecutorial Decision-Making
3. Evaluating Racial Equity in Pennsylvania's Prosecutorial Processes and Generating a Vision Forward
4. Short-Term and Long-Term Impacts of Felony Prosecution
5. Investigating and Addressing Racial & Ethnic Disparity Across Prosecutorial Decision-Making Points
6. Local Prosecution Reform: Understanding the Role of Case Processing Decisions in Achieving Reform
7. Diversion in Westchester and Jefferson Counties: A Policy Study of Process and Outcomes
8. Cost-Benefit Analysis of Prosecutor Diversions
9. How the Shift Toward Presumptive Non-prosecution of Misdemeanor Offenses Affects Racial Disparities in Current and Future Penal System Outcomes in Two Jurisdictions
10. Partnering with Prosecutors to Reduce Racial Disproportionalities
11. Promoting Racial Justice and Transparency in Indiana
12. Examination of Prosecutors' Decisions to Stop Prosecuting Low-Level Offenses
13. Prosecutorial Discretion in Diversion: Evidence from Dallas County & the City of Los Angeles
14. Expanding Juvenile Diversion Eligibility to Reduce Disparities and Justice Involvement: Examining Impacts of Prosecutorial Discretion via Diversion Policy Changes in Philadelphia and Montgomery County, Pennsylvania

Source: "Arnold Ventures Pledges \$7.4 M for Nationwide Prosecution Research," *Press Release*, November 3, 2022

**Incarcerated Maine Students Defeat MIT Students in Recent Debate:** A group of co-ed students in the Maine

Department of Corrections recently debated a group of students from the Massachusetts Institute of Technology (MIT) on the subject of whether term limits should be required for U.S. Supreme Court Justices. The Maine DOC students included a pre-law student, a business management student, a graduate student in peace and reconciliation, a master's degree student in public administration and a master's degree student in youth development. They were from four different institutions and practiced virtually with the help of outside coaches. They met in person to participate in the live debate. The MIT students were studying engineering, economics, and pre-med.

Judges decided by a vote of 5-0 that the Maine DOC team was the winner. Daniel Throop organized this debate and has organized other prison debates in Massachusetts. He hopes to expand the National Prison Debate League to other correctional facilities around the country.

*Source: "Maine prison debate team beats MIT in historic competition," by Susan Sharon, Bangor Daily News, October 21, 2022*

**Massachusetts Eliminates Probation and Parole Fees:** As part of a recent budget bill, Massachusetts has eliminated all probation and parole fees. Those fees had ranged from \$50 to \$65 per month. Two other states, Oregon and California, have also eliminated those fees. Edward Dolan, the state's probation commissioner, said, "The elimination of probation

fees removes a significant barrier to effective, evidence-based probation practice for many on our caseload. It further reduces the stress that mounting financial insecurity can bring."

*Source "Mass. Eliminates probation, parole fees," by Christian M. Wade, Statehouse Reporter, September 16, 2022*

**Michigan Has Closed Another Prison:** With a current population of approximately 32,000 people, the Michigan's prison census is at a more than 30-year low. As a result, the system closed the Michigan Reformatory in Ionia in November. The Gus Harrison facility in Adrian consolidated four of its units on the south side. The closures will help to alleviate problems caused by staff shortages, since staff in the closed units can move to other units. In making the announcement, the department also reported that recidivism rates are now at 23.6%, a drop of nearly 20 percentage points in the past 20 years.

*Source: "Michigan prison set to close amid declining prisoner population," by Kara Berg, The Detroit News, September 7, 2022*

#### WITH SYMPATHY

Since publication of our last newsletter, we have learned of the deaths of MI-CURE members and supporters Christopher Benn – 870259, James Edwards – 174813, William Graves – 100662, and William Sanders – 140405.