



MI-CURE NEWS

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SADO UPDATE ON YOUTHS SENTENCED TO LIFE

Background

In 2016, *Montgomery v Louisiana* required resentencing of all people serving mandatory sentences of life without parole for offenses committed under age 18 because the sentences violated the Eighth Amendment ban on cruel and unusual punishment. Following authorization by the Appellate Defender Commission, the State Appellate Defender Office (SADO) stepped up to provide representation for many of the 364 people requiring new sentencing hearings stemming from the *Montgomery* decision and MCL 769.25a. SADO built a dedicated Juvenile Lifer Unit of attorneys, mitigation specialists, and reentry resources for this representation.

SADO's Juvenile Lifer Unit initially represented 193 of Michigan's 364 juvenile lifers and 148 of these individuals have now received a sentence offering the opportunity for parole. A total of 72 SADO clients have paroled or discharged from the Michigan Department of Corrections.

The representation needs are intense, including contested, intricate, and lengthy sentencing hearings where SADO advocates for sentences offering the opportunity for parole. At these hearings, working closely with forensic psychologists and other experts, the SADO team presents evidence from exhaustive mitigation investigations into the lives of the people receiving new sentences.

New Youth Sentencing Decisions and Need for Counsel

On July 28, 2022, the Michigan Supreme Court issued multiple decisions expanding the *Montgomery* decision. In *People v Parks*, the Court held that a mandatory sentence of life imprisonment without the possibility of parole for an offense committed by an 18-year-old, whose case was on direct appeal, constituted cruel or unusual punishment under the Michigan Constitution. At the same time, the Court sent *People v Poole*, a collateral appeal of an offense committed by an 18-year-old, back to the Court of Appeals to determine if the holding in *Parks* applied to Mr. Poole. In *People v Stovall*, the Court held that a parolable life sentence for a youth convicted of second-degree murder violated Michigan's constitution.

Stovall cases: There are 77 people serving parolable life sentences in Michigan for offenses committed under the age of 18. All will require new sentencing hearings.

Poole cases: There are 274 people in Michigan sentenced to life without parole for offenses committed at the age of 18. The need for further action will be determined by the Court of Appeals in *Poole*. A much smaller group of people already have counsel on direct appeal who should represent them for resentencings pursuant to the *Parks* decision. SADO believes that this entire group of people will eventually require new sentencing hearings where they will have the opportunity for a term of years sentence and parole.

In summary, 77 people need counsel now, while 274 people potentially will need counsel after the *Poole* decision. SADO has requested supplemental budget funding to expand our Juvenile Lifer Unit for a portion of this representation. A decision on this request is still a few months away.

For the 77 individuals serving parolable life sentences, SADO is following up with trial level indigent defense system administrators to ensure appointment of counsel. With the success of the Michigan Indigent Defense Commission, trial level systems are well placed for the *Stovall* resentencings. For the 274 individuals serving life without parole sentences for offenses committed as 18-year-olds, SADO plans to have further guidance after the *Poole* decision. The goal is a division of SADO appointments and referrals to trial court indigent defense administration for appointment of trial counsel.

Best practices

The continued wait for relief is frustrating, but these decisions mean that there will be an opportunity for hundreds of people serving life sentences to return home. These are exciting times. As we wait, at SADO, we can advise people to:

- Minimize any misconducts.
- Take advantage of any potential educational opportunities.
- Be aware of the non-confidential nature of JPay and phone conversations. SADO has represented people whose phone conversations with loved ones have been broadcast to judges at sentencing hearings.

We understand that there are still unanswered questions and that the continued wait is frustrating. SADO will continue to update everyone impacted by these decisions as there is news.

PRISON PROGRAMMING

In the last edition of *MI-CURE NEWS*, we reported on a number of unique prison-based programs from throughout the country. As we stated then, we believe it is important to offer a variety of programs in our prisons to keep people active, learning, and growing. Since that report, we have become aware of other programs and strategies that we want to share.

Cool Down Rooms

The Virginia Department of Corrections is gradually introducing “Cool Down” rooms to all of its prisons. The rooms provide space and time (up to four hours) for an individual who is having problems with someone or is in emotional distress to calm down alone. An individual can ask to go to the Cool Down space or may be referred there by staff for behavior that disrupts the operation of the facility. Since the pilot program began, 85% of people who spent time in the room were returned to general population. The other 15% were moved to segregated housing, because their behavior worsened.

Rehabilitating Endangered Turtles

Residents of the Cedar Creek Corrections Center in Washington State have helped to rehabilitate Western Pond Turtles that were afflicted by an unknown shell disease. After veterinarians performed surgery, the turtles needed time to recover before being released. Residents cared for the turtles for nearly a year before they were returned to their natural habitat.

Prison Libraries

Washington State Library’s Institutional Library Services (ILS) and the Washington State Department of Corrections are engaged in a pilot program to develop strategies and tools aimed at reducing disparities among library services at state and territorial prisons across the country. With a \$149,668 grant from the Institute of Museum and Library Services (IMLS), they will work with stakeholders to “identify current policies, best practices, performance standards, and outcomes of prison library programs and develop adaptable models for providing and improving services.” They have already surveyed correctional leaders in 35 states.

The State of Washington recently provided \$1,168,000 to allow Washington State Library to expand library services for people who are incarcerated in its adult prisons.

Learning to Operate Heavy Equipment

Arkansas’ Varner Unit recently demonstrated its heavy equipment training program. The course requires 600 hours of study that include workplace human relations, financial literacy, and simulators that mimic the operation of a Caterpillar bulldozer and excavator.

JSTOR

On its website, JSTOR describes itself as “a digital library for the intellectually curious.” Its goal is to “help everyone discover, share, and connect valuable ideas. (And it) provides access to more than 12 million journal articles, books, images, and primary sources in 75 disciplines.” Since 2007, it has provided incarcerated students offline access to its collection. It expanded those efforts in 2019 with two pilot programs. The Andrew W. Mellon Foundation funded a pilot program to develop new and improved support for offline access to the materials. The Ascendium Education Group funded the creation and testing of a version of JSTOR with direct access for incarcerated students.

Now the Mellon Foundation is funding a three-year project to scale access to JSTOR for all higher education in prison (HEP) programs in the U.S. The goal is to “provide both offline and direct access solutions that meet programs’ and facilities’ security requirements while making the student experience as close as possible to that of their peers on the outside.”

Peer Mentoring in Prison

The College Reading & Learning Association (CRLA) is the international standard for peer tutoring certification in higher education. Lauren Zavrel, an instructor at the Larch Corrections Center in Washington State, decided to write a correctional-education specific curriculum and get it certified by CRLA. She enlisted the help of four incarcerated individuals who designed a course that requires 20 hours of formal training and a minimum of 50 tutoring hours. To earn a certificate, individuals must complete the specified curriculum and pass a test. The course includes issues that are unique to prisons, such as potential hierarchy problems and trust issues.

Substance Use Recovery

The South Carolina Department of Corrections will be working with Pear Therapeutics, Inc. to support incarcerated women in recovery from opioid and other substance use disorders. Pear is described as “the leader in developing and commercializing software-based medicines called prescription digital therapeutics (PDTs).” This is reportedly the first such collaboration in a correctional setting.

The program involves two products: reSET is used as a monotherapy for patients 18 years of age or older with substance use disorder; reSET-O is used in combination with buprenorphine-based medication-assisted treatment of patients 18 years of age and older with opioid use disorder.

The PDTs are FDA-authorized digital treatments which, according to Pear’s Julia Stranberg, “are designed to help patients on the path to recovery while our clinician dashboard allows counselors to monitor progress.”

Why it is Important

The Prison Policy Initiative recently published an analysis of the data from the Bureau of Justice Statistics' 2016 Survey of Prison Inmates. Their conclusion and recommendations are particularly relevant:

“In the name of ‘justice’ states misguidedly send large numbers of people with low levels of education and income to prison, and then offer them little in the way of economic, professional, or personal growth opportunities to increase the odds of a better future. The *Bureau of Justice Statistics' 2016 Survey of Prison Inmates* data show that incarcerated people are starved for opportunities to earn a real living and find purpose in state prisons. It's in everyone's best interest to offer meaningful opportunities to incarcerated people – for one, it costs far less to educate someone compared to locking them up. Putting obvious fiscal considerations aside, disrupting the cycles of struggle, unlawful or violent behaviors, and incarceration will require more compassionate – and less carceral – interventions.”

Source: “VADOC launches ‘Cool Down’ room pilot program in 9 prisons,” by David Ress, Richmond Times-Dispatch, October 3, 2022; “Cedar Creek Turtle Program Rehabilitated Endangered Turtles Get Released,” by Danielle Jimenez, Washington State Department of Corrections, August 10, 2022; “Washington State Library receives \$149,668 grant from the Institute of Museum and Library Services,” Tacoma Daily Index, August 10, 2022; “Varner showcases simulators,” by I.C. Murrell, Arkansas Online, September 2, 2022; “JSTOR Access in Prison Initiative;” “Going From ‘I Can’t to I Can’: Larch Peer Mentoring Program is First Certified Prison Tutoring Program in the Nation,” by Rachel Friederich, Department of Corrections Washington State, September 8, 2021; “South Carolina Department of Corrections and Pear Therapeutics Team up to Support Inmates in Recovery from Substance Use Disorders,” Joplin Globe, September 1, 2022; “The state prison experience: Too much drudgery, not enough opportunity,” by Leah Wang, Prison Policy Initiative, September 2, 2022

CIVILIAN RESPONDER SYSTEMS

Denver, CO

In June, Stanford University researchers Thomas S. Dee and Jaymes Pyne published a study in *Science Advances* on Denver's Support Team Assisted Response (STAR). Denver engaged in a six-month pilot of the program in which a few mental health professionals worked in shifts out of a single van to respond to behavioral health incidents in the downtown business district. The goal was to connect people to resources and support that would keep them out of crisis and out of the criminal justice system. Below are some of the findings of the study:

- In six months, the teams responded to 748 incidents involving mental health crises, indecent exposure, homelessness, and substance use where the threat of violence was considered low.

- None of the responses resulted in an arrest.
- There was a 34% drop in recorded low-level crime when compared to the covered areas before STAR began and compared to areas where STAR did not operate.
- In areas where STAR operated, low-level crime fell even when the teams were not operating.
- In areas where STAR operated, serious crime did not rise.
- STAR responses cost a quarter as much as a police response.

After the pilot, Denver expanded the program to include 5 vans, with plans to have 10 by the end of summer. The program will eventually cover all Denver precincts, and is expected to handle between 10,000 and 15,000 911 calls per year.

There is some debate about the potential for these programs. Denver officials believe that a fully operational STAR will handle only 2.8 percent of 911 calls. The Center for American Progress reviewed 911 calls from eight cities and estimated that community responders could handle between 21 and 38 percent of 911 calls.

Baltimore, MD

In June 2021, Baltimore, MD launched the Behavioral Health 911 Diversion Pilot Program. The goal of the program is to divert some mental health related 911 calls to experienced mental health specialists through a 988 crisis line. A unique feature of this program is that calls are handled by existing crisis services, rather than a single organization. Calls being rerouted include situations involving de-escalation assistance, crisis aid, referrals to other resources, and suicidal ideation.

The 988 hotline is now available 24 hours a day, 7 days a week. There are currently eight teams operating 24/7. Each mobile crisis team includes mental health professionals – psychiatrists, social workers, and nurses. The program is financed through state funding and grants.

Kalamazoo County, MI

In 2021, Kalamazoo County's 911 dispatch received almost 19,000 calls in which a behavioral health issue was flagged. Portage Public Safety Deputy Chief John Blue estimates that 25% to 30% of the calls they receive have a mental health component. Kalamazoo County Sheriff Richard Fuller estimates that 60% of the people in the county jail have mental health issues. Working with a \$500,000 federal grant, the county's police chiefs are joining together with local mental health experts to create a collaborative to address these issues. The project has four pillars:

1. COUNTYWIDE CALL RESPONSE MODEL: Mental health clinicians would be available to respond in real time to crisis situations.
2. 24-HOUR CRISIS INTERVENTION CENTER: The mental health crisis center would provide first responders a place to bring people who need immediate attention. (This facility is expected to open in 2023.)

3. A COUNTYWIDE GROUP FOCUSED ON HIGH-RISK, HIGH-NEED: The group would meet regularly to focus on individuals who use EMS regularly. “We’ll try to create a holistic plan where we can wrap services around those individuals and families to reduce the frequency of calls and frequency of crisis situations.”
4. COUNTYWIDE CODING SYSTEM FOR LOCAL POLICE DEPARTMENTS: The system would facilitate better data collection on calls involving behavioral health. The system would allow officials and the public to see how many such calls are received and how many result in arrest, hospitalization or diversion to other programs.

Sources: “Mental Health Professionals Really Can Assume Some Police Duties,” by Will Norris, Washington Monthly, August 16, 2022; “911 Diversion Pilot – Baltimore, MD,” Justice Center Council of State Governments, October 2022; “Police want closer ties with mental health experts,” by Julie Mack, Kalamazoo Gazette, August 18, 2022

PRISON PHONES

California

California Governor Gavin Newsom recently signed a bill into law that will make prison phone calls free for the state’s 93,000 incarcerated people. In addition, the law prohibits local agencies from “receiving revenue for the provision of communication services to persons in its custody.” The state’s utility commission will be responsible for ensuring that the quality of service does not fall below current standards. California joins Connecticut as the only other state to provide free phone calls. The cities of New York and San Francisco also provide free phone calls.

Michigan

Calls from Michigan prisons cost nearly 40% less starting October 1, thanks to a provision in the state’s budget for the next fiscal year. Elimination of the Special Equipment Fund surcharge means that calls will cost 8.7¢ per minute, rather than 14¢. It is estimated that Michigan families will save \$11 million per year.

State Representative Tenisha Yancy has introduced a bill (HB 6363) that would make phone calls from Michigan’s prisons, jails, and juvenile facilities free. In addition, the bill would require at least one operable phone for every 10 people in the facility and at least two operable phones in each housing unit. Incarcerated people would be able to use communication services for at least 120 minutes per day.

Sources: “Prison calls are wildly expensive. Gov. Newsom just made them free in California,” by Kwasi Gyamfi Asiedu, Benton Institute for Broadband & Society, September 30, 2022; “New budget lowers phone fees,” Safe & Just Michigan, September 30, 2022

VISITS MATTER

Studies have shown that incarcerated people who receive visits have a significantly lower chance of recidivism. Reducing recidivism isn’t the only reason they are important. The See Us Support Us website www.susu-osborne.org makes it clear how much it matters to the children of the incarcerated.

This year, a bill was introduced in the **New York** legislature to ensure that visiting hours are accessible and long enough and that video conferencing is available as a supplement (not a replacement) to visiting. The bill passed the Senate for the third year in a row, but died in the assembly.

Families Against Mandatory Minimums (FAMM) is conducting a Visit A Prison challenge to encourage visits by lawmakers. They are suggesting that incarcerated individuals write to their state senator and state representative to invite them to tour the facility. They suggest a brief letter in which you introduce yourself, explain where you are incarcerated, ask them to tour the facility, and see that you are people deserving of a second chance. You might want to invite them to come at meal time and share that experience. If you hear from your legislator, FAMM would like to know. Their address is FAMM, ATT Visit a Prison, 1100 H Street NW, Suite 1000, Washington DC 20005.

Source: “Protecting the Connection Between Parents in Prison and Their Children,” by Oluwadamilade O. Ogunlade, The Brennan Center, September 6, 2022

OPEN MI DOOR

The Open MI Door (OMD) campaign has been hard at work raising awareness about the negative impact of solitary confinement. They have been connecting with solitary survivors and families to uplift the movement. Meetings have been held with legislators and the governor’s office to discuss the urgent need for reform.

OMD partnered with The End of Isolation Tour to bring “The Box” to Detroit in August. “The Box” is a thought provoking play about solitary confinement. It was a transformative and healing experience bringing formerly incarcerated families and the community together.

In early September, they hosted a poetry night at the Robin Theater where impacted individuals and families read poetry on the topic of isolation and incarceration. It was a powerful night that helped to educate the community. It was a sold out event with standing room only.

The group intends to hold future events in various regions across Michigan, bringing solitary survivors, their families and the general public together to educate those who have not previously been touched by incarceration.

Citizens for Prison Reform (CPR) celebrated 10 years of advocacy this month. Families, advocates and formerly incarcerated gathered in Lansing to commemorate their work

through poetry, PCAP art and live music. They also showcased our new model solitary confinement cell.

During the event, CPR honored its inside correspondence team who has been working with individuals currently in solitary confinement. They have received and responded to over 500 letters this year. CPR is grateful for all the dedicated volunteers who give so much to this campaign.

The OMD steering team is committed to moving legislation forward in 2023 to address oversight and the use of solitary confinement.

Individuals in isolation and their families are encouraged to continue to reach out and share their experiences with OMD at P.O. Box 80414, Lansing, MI 48908.

SURVIVING SOLITARY

Michael J. Nichols was recently asked by a friend how he survived a year in solitary confinement. He shared ten tips with his friend, and we are sharing them here. We realize that everyone's experience is different, but perhaps some of these will be of help to some of our readers.

- Do the time, don't let the time do you. For me, that meant getting up after breakfast and staying up. I refused to sleep the day away.
- Exercise will be one of your most productive activities in the hole. Set goals you can actually see and feel based on how long you think you'll be in there. For instance, I wanted six-pack abs. I started off doing 500 sit-ups and leg lifts every day and gradually increased that number to 3,000. Now I am a unicorn, the rare 50-year-old with a stomach that looks like a Spartan warrior's.
- Read anything you have access to — the Bible, the Quran, "The Science of Mind" or even the dictionary. The guards... would rather see you driving yourself crazy than reading any type of literature.
- Learn new things, even if they're small. I increased my vocabulary by studying the dictionary. I also taught myself how to write legibly with my left hand. Every morning I would write down a positive affirmation with my right hand and then rewrite it with my left. Simple things like this can produce beautiful benefits.
- Stay out of frivolous conversations with other captives. For example, discussions about government politics, street politics and prison politics only lead to arguments. Instead, focus on topics that sharpen others, like spirituality, history, business and legal issues.
- Because the (guards) often have an agenda to keep you in administrative segregation, they will try different methods to make you angry. Learn to observe but not respond to their antagonism. When a correctional officer jacks you for your recreation or shower time, don't get mad, act out and end up with

30 more days in the hole. Just do your exercises in your cell and wash up in the sink.

- Always leave the cell when the opportunity allows. Go to the shower. Go to rec. Go to medical. Go anywhere you're allowed because getting out of that cement box destroys the onset of what I call cell anxiety. This form of anxiety occurs when you avoid leaving your cell because you believe the guards are going to do a search and take something you deem valuable. To be sure, the (guards) *will* take things from you. But when you are always leaving, they tend not to enter your cell because you don't exhibit the fear that most do.
- Write letters — to your loved ones, to ministers in your faith tradition, to libraries and organizations that send literature to prisoners. Write to the courts about issues you find unfair. Write to legislators about potential laws. Just write.
- File grievances about any legitimate issues. I have filed complaints about live electrical wires hanging out of torn outlets and water coming from the ceiling. I've written grievances about how the case managers handled my legal materials while I was in the hole. I've also advocated for my right to have a religious text besides The Bible and The Quran. Administrators hate prisoners who file paperwork because it forces them to do something other than torturing you. They may release you more quickly than they would a man who has no complaints about his situation.
- Always practice your faith. Day in and day out, I prayed, meditated and took Bible-related correspondence courses. I also practiced martial arts and breathing techniques, and I worked on improving my foresight. For me, faith is the most important survival tool. Faith is what got me through my worst-of-the-worst times in the hole.

Source: "How I Survived a Year in 'the Hole' Without Losing My Mind," by Michael J. Nichols, The Marshall Project, September 30, 2022

FEDERAL PRISON OVERSIGHT

A bipartisan group of U.S. senators has introduced legislation to increase oversight of the Federal Bureau of Prisons (BOP). The bill would require the inspector general of the Department of Justice to conduct inspections of all federal prisons and provide recommendations to address deficiencies. The findings would be shared with Congress and the general public and the BOP would be required to respond with a corrective action plan. The bill would also establish a prison ombudsman that would receive complaints via a secure hotline or online form. The ombudsman would investigate and report dangerous conditions to the attorney general and Congress.

Senator Jon Ossoff of Georgia led the committee that investigated the problems and was quoted, "My 10-month bipartisan investigation of corruption, abuse, and misconduct

in the Federal prison system revealed an urgent need to overhaul federal prison oversight. I am bringing Democrats and Republicans together to crack down on corruption, strengthen public safety, and protect civil rights.”

A number of organizations support the reforms, including the correctional officers’ union, Families Against Mandatory Minimums, the American Conservative Union, and Americans for Prosperity. The National Association of Criminal Defense Lawyers recently passed a resolution supporting an Independent Federal Prison Oversight Committee/Council.

Sources: “Senators push new oversight to combat federal prison crises,” by Michael R. Sisak and Michael Balsam, Associated Press, September 28, 2022; “Regarding Bureau of Prison Oversight,” National Association of Criminal Defense Lawyers, August 13, 2022

SEX OFFENDER REGISTRATION ISSUES

Pennsylvania

A judge in Chester County Pennsylvania has ruled that the state’s Sex Offender Registration and Notification Act is unconstitutional. In her ruling, Judge Allison Bell Royer made the following remarks. “The bottom line, as the defense experts have demonstrated, is that 80% to 95% of all sex offenders will not re-offend.” And “(SORNA) encroaches upon a person’s fundamental right to reputation under Article 1, Section 1 of the Pennsylvania Constitution.”

“(SORNA) does not function as intended and is not effective at promoting public safety. It diverts resources away from offenders who could most benefit from them. Finally, SORNA catches in its net offenders who have committed crimes with no sexual component to them. It is unconstitutionally overbroad and excessive. We find that SORNA’s registration and notification provisions are punitive in effect, overriding the Legislature’s attempted creation of a civil regulatory scheme.”

The Supreme Court of Pennsylvania had remanded the case (*Commonwealth v George Torsilleri*) to the county court because the Commonwealth was unable to substantiate the law’s assumption that “all sex offenders pose a high risk of sexually reoffending” and therefore could be imposed as part of criminal sentencing.

Michigan

In August, the ACLU of Michigan requested a preliminary injunction on several issues related to the Does III litigation, in hopes of providing preliminary relief for class members. Also, in August, the state moved to dismiss the entire case. On September 15, the court denied the motion for preliminary injunction and the motion to dismiss the case. Now the case will move into the discovery phase. There is no way to know how long the process will take, but it is likely to be many months.

Sources: “NEWS RELEASE: Judge declares PA Sex Offender Registration and Notification Act Unconstitutional,” NARSOL, August 24, 2022; ACLU of Michigan

BROKEN PRISON ECONOMIES

Nevada

A recent state audit in Nevada revealed that prisons there mark up the price of commissary goods more than 40%. It also revealed that incarcerated people owed the Department of Corrections \$10.4 million in uncollected debt. Much of that debt is related to medical expenses.

The Nevada Legislative Judiciary Committee approved drafting a bill to discharge some of those debts when a person is released from prison and limit the Department’s ability to markup commissary items and charge medical co-pays. Those bills will not be considered until the 2023 legislative session.

New Jersey

In New Jersey, wages paid to incarcerated people have not changed since 2001. At the same time, inflation has averaged 2% a year, spiking at 8% this summer. That means that commissary prices rise, while wages stagnate. People in prison spend, on average, \$12.7 million a year on commissary – no doubt supplemented by families and friends in many cases.

Many people in New Jersey begin their sentence in debt, because the system provides a “new man package” for someone entering the system. That includes things like socks, boxers, a towel, and writing materials – at a cost of \$15.67. The package is offered every time someone moves to another facility. While an individual can refuse the package, it leaves them without those necessities.

Department spokesman Daniel Sperrazza said the system was considering raising wages – not because of inflation, but because of demand for specialized skills. He was unable to provide a timeline for the potential change.

Michigan

Similar to New Jersey, wages in the Michigan prison system have not increased for decades. Some wages have been reduced and many people are only offered part time work. Commissary costs continue to increase with inflation, with current prices similar to what people pay in the free world. Individuals often use the commissary to supplement their diets since the quality and quantity of food provided by the institutions is inadequate.

Commentary

We believe we should pay incarcerated people a living wage for the work they do. Instead of having a group of frustrated and somewhat helpless individuals, we would have self-sufficient adults who could support their families, and can save money they will need when released.

Sources: “Lawmakers eye legislation to rein in commissary costs, medical debt for incarcerated people,” by Michael Lyle,

Nevada Current, September 14, 2022; "Inflation hits inmates' wallets, even as their wages have flatlined," by Dana DiFilippo, The New Jersey Monitor, September 28, 2022

THE ABA WEIGHS IN

The American Bar Association recently passed two resolutions aimed at ending mass incarceration. Resolution 604 includes Ten Principles on Reducing Mass Incarceration that will hopefully guide policies of legislative and governmental bodies. They include the following:

- Limit the use of pretrial detention.
- Increase the use of diversion programs and other alternatives to prosecution and incarceration.
- Abolish mandatory minimum sentences.
- Expand the use of probation, community release and other alternatives to incarceration, and create the fewest restrictions possible while promoting rehabilitation and protecting public safety.
- End incarceration for the failure to pay fines or fees without first holding an ability-to-pay hearing and finding that a failure to pay was willful.
- Adopt "second look" policies that require regular review and, if appropriate, reduction of lengthy sentences.
- Broaden opportunities for incarcerated individuals to reduce their sentences for positive behavior or completing education, training or rehabilitative programs.
- Increase opportunities for incarcerated individuals to obtain compassionate release.
- Evaluate the effectiveness of prosecutors based on their impact on public safety and not their number of convictions.
- Evaluate the effectiveness of probation and parole officers based on their success in helping probationers and parolees and not their revocation rates.

Resolution 502 supports second look sentencing for individuals who have been incarcerated for at least 10 years.

SHORTS

New York Prison System May Drop JPay: The New York Department of Corrections and Community Service (DOCCS) has contracted with JPay since 2007. DOCCS recently entered into a one-year contract extension – unusual for a prison telecom contract. A department spokesperson reportedly suggested that, "In the coming months, DOCCS will evaluate other potential vendors, including JPay, to plot a path forward in delivering services at the lowest possible rates."

Source: "New York May Drop JPay, The Scandal-Plagued Prison Banking Company," By Eli Tan, New York Focus, October 21, 2022

DC Council to Vote on Revised Criminal Code Act: The District of Columbia Council will vote soon on legislation that could result in significant changes to its criminal code. The changes would...

- Eliminate nearly all mandatory minimum sentences
- Cap maximum sentences at 45 years
- Expand second look judicial sentence reviews to people who have served at least 20 years for crimes committed at age 25 and older.

Source: The Sentencing Project, October 20, 2022

More Doubt Regarding Bitemark Analysis: In October, the National Institute of Standards and Technology (NIST) released a report on the use of bitemark analysis. Bite analysis is based on three assumptions. 1. Each person's teeth are structured and aligned in a way that causes them to leave unique bite marks. 2. The human skin is capable of recording and preserving those marks in a way that makes them distinguishable. 3. Trained analysts are capable of analyzing marks to include or exclude someone as the person who left them. No scientific evidence has been found to support any of the assumptions. Studies have consistently shown that human skin is incapable of recording and preserving the details of a bite. Competency tests have shown that not only are bite mark analysts bad at matching bites to human subjects, they often can't even agree on what is and isn't a human bite.

"The NIST report is now the fourth major scientific body to find no scientific validity to support these central tenets of bitemark analysis."

The author of this article points out that bitemark analysis has played a role in a small percentage of convictions and that people have been challenging its use since it began to gain acceptance in courts in the 1970s. Addressing possible wrongful convictions would require reopening only a few hundred cases.

"Because the criminal justice system was created by and is operated by human beings, mistakes will be inevitable. The courts' legitimacy lies in their ability to concede and correct them. Tragically, judges and prosecutors seem to have concluded that real legitimacy lies in pretending the biggest, most consequential mistakes never happened."

Source: "Yet another scientific body has debunked bitemark analysis. The courts still won't care." by Radley Balko, The Watch, October 18, 2022

Former Inmates a Protected Class in Atlanta: The Atlanta (Georgia) City Council has voted to establish formerly incarcerated people as a protected class. That means that people who have served time will be given the same opportunities as any other citizen and should make it easier for them to get a job, find housing, and provide for themselves.

Source: "Former inmates now a protected class in city of Atlanta," by Adam Murphy, Atlanta News First, October 17, 2022

Overdoses in Missouri Prisons: On July 1, the Missouri Department of Corrections (MODOC) ceased receiving

physical personal mail for incarcerated persons. Instead, mail was sent to a facility in Florida where it was scanned and sent digitally to the incarcerated. At the time of the change, a department spokeswoman cited a serious issue with drugs entering the system. “In particular, the liquid forms of drugs such as fentanyl, methamphetamine, cocaine, GHB, LSD, and suboxone can be liquefied and soaked into the paper itself, which is hard to detect. Fentanyl can be especially potent and lead to overdose. We also find drugs hidden between the layers of greeting cards, tucked under postage stamps.”

In the first three months of the new mail policy, drug overdoses have increased approximately 10 percent. In the first six months of 2022, the state’s prisons averaged a little more than 34 per month. In July, August, and September, the average was 39 per month – with 46 overdoses in September. The executive director of the Missouri Corrections Officers Association reportedly said that the main driver of drug entering the system is custodial and non-custodial staff, with some entering through in-person visits.

Source: “Overdoses Rise in Missouri Prisons Despite Strict New Mail Policy,” by Ryan Krull, Riverfront Times, October 17, 2022

Pennsylvania Pardons: Pennsylvania Governor Tom Wolf has signed more than 2,000 pardons since taking office in 2015 and considers that one of the greatest honors of his time in office. His administration modernized and streamlined the application process and waived fees.

Source: “Gov. Wolf Pardons 2,000 Pennsylvanians for New Beginnings,” Press Release, August 23, 2022

Help with Suspended Driver’s Licenses: The Michigan Department of State (MDOS), the Department of Attorney General, and community partners have been hosting a series of clinics around the state to help individuals restore their driving privileges. Other partners making the Road to Restoration Clinics possible include DTE Energy, Miller Canfield Law Firm, Detroit Justice Center, United Way, and local partners who provide the space for the clinics.

On October 1, 2021, a new state law “lifted license suspensions for drivers who failed to pay tickets or court fines or failed to appear in court for certain non-moving and other violations.” Those changes triggered the MDOS to cancel infractions on the driving records of more than 350,000 Michiganders. However, many of those individuals must take additional steps to restore their licenses.

Staff members at the clinics help individuals determine what they must do to restore the license and, if possible, provide those services on site. Clinics have been held in Muskegon, Saginaw, Alpena, Traverse City, and southwest Detroit. More information is available to Michigan.gov/RoadtoRestoration. *Source: “MDOS, Department of Attorney General continue Road to Restoration clinic series in Muskegon,” Press Release, August 10, 2022*

WITH SYMPATHY

Since publication of our last newsletter, we have learned of the deaths of MI-CURE members and supporters Chester Hardy – 152080 and Timothy Hughes – 133285.