



MI-CURE NEWS

A QUARTERLY PUBLICATION OF
MI-CURE, PO BOX 2736, KALAMAZOO, MI 49003-2736
(269) 383-0028 WWW.MI-CURE.COM

May 2024

PRISON PROGRAMMING

Once again, we are highlighting unique programs developed in jails and prison throughout the country.

Beekkeeping

The Leon County Detention Facility provides incarcerated individuals the opportunity to care of its four active beehives. Participants are able to earn a beekeeper apprentice certificate from the University of Florida. Those who are unable to complete the program before their release can finish it on their own. The first harvest netted 7.5 gallons of honey that were given to employees of the sheriff's office. The office hopes to eventually sell packaged honey and products from beeswax at local stores.

Teaching Trades

Trades Related Apprenticeship Coaching (TRAC) is a 16-week program that teaches women the skills they need to work in trades such as iron working, cement masonry, and brick laying. Participants must demonstrate that they are fit enough to handle the job. Classroom work teaches math, how to tie knots, interviewing skills, resume writing, and financial literacy. The program simulates the workday of union employees in industry.

The program also works with released women to help with housing, transportation, and union startup costs such as tools, belts, boots, and membership dues. Not all graduates end up working in trades, but they often benefit from what they have learned. The recidivism rate of released graduates is 5%, compared to 15% for women in Washington.

Oregon has developed a trades program modeled after Washington's and developed in partnership with trade unions. The unions offer direct or preferred entry to graduates of the program.

“Significant Woman” Event

The Washington prison system's annual “Significant Woman” event gives incarcerated men an opportunity to honor the women in their lives — spouses, girlfriends, mothers, sisters. Visits on these days are not as restrictive as most days. Prisoners and visitors can sit close and put their arms around one another, they can walk around the room (rather than being confined to one table), and incarcerated men are provided with dress shirts, ties, and blazers. In a recent article, Darrell

Jackson described the experience visiting with his mother that day.

When he finished putting on the shirt, tie, and blazer, he looked in the mirror. “For the first time in about 15 years, I was able to see the man I really am. I entered the packed visiting room on Cloud 9 with my confidence high.”

“During that four-hour visit, we talked about our lives. I told her about my accomplishments in organizing and writing, and I shared my goal of earning a bachelor's degree in behavioral health and becoming a peer counselor. We also spoke about the distance between us and how hard my choices had been on her. She shared how much she had feared for my life when I was out on the streets, and how that terror intensified when she got the phone call telling her that I had been arrested for murder and wouldn't be coming home.”

“This was the first time my mother and I had such a deep discussion. Sometimes, it's just easier not to talk about the emotional and financial burden that incarceration places on people who care about us. About how our loved ones are doing time with us.”

“While I knew I would connect with my mom that day, I was surprised by what a difference a few articles of clothing made. Seeing us all dressed nicely and feeling normal not only shifted my sense of myself, it changed how I thought about my fellow prisoners. It's too easy — even for those of us who are incarcerated — to define others by the worst things they've done. That day, I just saw *people*. It was the closest thing to freedom I had felt in a long time.”

After the visit, he reflected on the day. “I thought about what prison garb takes from us psychologically. Fences and concrete walls are not the only thing that keeps us trapped. These uniforms strip away our uniqueness, and they relentlessly remind us of our confinement. If I wore a business suit, a judge's robe, a lab coat or a military uniform, I would feel the pride and sense of purpose that comes with these clothes. I would feel connected to and responsible for my company, community, country, and to the larger world. Prison garb makes me feel insecure, like less than the person I know myself to be.”

Creating an Education Prison Facility

The Michigan Governor's Budget recommendations for Fiscal Year 2025 include \$3.9 million to expand educational offerings at the Thumb Correctional Facility (TCF). The goal would be to allow nearly every one incarcerated at the facility

to participate in an education program — adult basic education, vocational, and post-secondary. The proposal notes that current space constraints throughout the system limit participation in educational programs to about 10-15% of the population. The proposal is to convert an old Michigan State Industries factory into additional classroom space to support post-secondary courses at TCF.

The proposal cites several reasons for selecting the Thumb for this project. The facility has one housing unit dedicated to individual sentenced under the Holmes Youthful Trainee Act and One unit for individuals under the age of 18. The facility has a larger than average education participation rate (20%), a robust partnership with Mott Community College, and is relatively close to other university and education partners. The factory is located within the perimeter of the facility.

As with all of the governor's budget recommendations, the legislature will now consider whether to include this in the final FY 2025 state budget.

Developmentally Disabled and Incarcerated

Pennsylvania's Neurodevelopmental Residential Treatment Unit was opened about three years ago. It houses about 45 men with intellectual or developmental disabilities. The small population limits the sensory stimulation of prison and allows staff to focus on individual treatment. Staff receive regular training on de-escalation and crisis intervention. The unit utilizes transitional cells in response to certain behaviors. Those provide a place where an incarcerated person can go to regain control over his emotions before returning to the unit. It avoids the use of solitary confinement that often causes individuals to regress from the gains they have made.

The Bureau of Justice Statistics estimates that more than 4% of the U.S. incarcerated population are autistic and almost 25% have cognitive impairments. That is nearly twice the rate of each in the overall population.

Sources: "Leon jail inmates abuzz after first harvest as beekeepers in training," by Alicia Devine, Tallahassee Democrat, March 28, 2024; "How training in the trades is helping women succeed after prison," by Charlotte West, Open Campus, January 14, 2024; "How a Borrowed Blazer, Tie and Dress Shirt Helped Me See Myself as a Man, Not a Prisoner," by Darrell Jackson, The Marshall Project, January 26, 2024; "FY 2025 Executive Budget Recommendation," February 7, 2024; "Prisoners with developmental disabilities face unique challenges. One facility is offering solutions," by Claudia Lauer, Associated Press, March 3, 2024

SEX OFFENDER REGISTRY

Does III Litigation Update and Information Re Registry Fees (email from the litigation team)

Dear Does III class members,

We wanted to give you an update on the litigation. As of late January, the case has been fully briefed, meaning that both sides have provided the court with factual and legal documents that the court will use to make a decision. At a status conference on February 15, the court let us know that it will be some time – likely not until summer – before the court will decide our motions. We do not yet know whether there will be an oral argument or a trial. (The trial would likely follow a decision on the motions.) We will, as always, keep you updated about any developments.

We also wanted to share some information about registry fees that may affect those of you who have been on the registry at least ten years. As you know, SORA requires an initial fee payment of \$50, and an annual fee payment of \$50 thereafter. The annual fees started about ten years ago, in April 2014. Importantly, the total fee amount (counting the initial fee and the annual fee) is capped at \$550. *See M.C.L. 28.725a(6).*

If you paid an initial fee and have paid 10 annual fees since then, you will have reached the \$550 cap. We think it is likely, however, that many law enforcement agencies will not know about the \$550 cap and may still try to charge you an annual fee. We would suggest that if you have been on the registry for ten years, you ask your local police agency for an accounting of all the fees you have paid to date. Some agencies may have suspended fee collection during COVID, so even if you have been on the registry for ten years, you may not have paid \$550 yet. Or you may have missed payments or not needed to pay if you are indigent/poor.

When you reach the \$550 cap, you can provide your local law enforcement agency with a copy of the law showing that you no longer need to pay the annual fee. If the local law enforcement agency says you must pay, then you can contact the MSP SOR Unit at (517) 241-1806. You can ask them for a copy of your payment history, and to add a note to your file that you are no longer required to make payments.

We are interested in monitoring whether there are large scale problems with law enforcement collecting fees past the \$550 cap. If you have difficulties, please send us a note describing what has happened. However, we cannot assist individuals on this issue, and you may not hear back from us. But it is important for us to know whether this is a systemic issue affecting many class members.

Finally, we wanted to make sure you know about the indigency/poverty exception to SORA fees. If you can prove indigency, you do not need to pay the fee for a period of 90 days. M.C.L. 28.725b(3). You are considered indigent if you receive food assistance (FAP) from the Department of Health and Human Services, if you have an annual income below the federal poverty guidelines, or if a court has found you indigent in the last 6 months. M.C.L. 28.722(f). The exception from payment lasts for 90 days. After 90 days, if you can demonstrate that you are still unable to pay, you can get another exemption. The law requires you to prove indigency.

You can do that by showing the police documents proving you receive food assistance, tax forms showing that your income is below the federal poverty guidelines, or a court order declaring you indigent.

Rethinking Registries

“Registries have been examined in numerous academic studies over the past several decades and virtually all of them have found that registries do not accomplish what they were intended to do. They do not reduce recidivism. They do not prevent sex offenses. They do not protect children. They do not make communities safer.” Therapy is helpful for most individuals. Recidivism rates are low among people convicted of sex offenses. The author of this article suggests adopting legislation proposed by the American Law Institute that would restrict “the information on registries to be available to law enforcement only, limiting those registered to only the most dangerous, and shortening the length of time individuals must remain on the registry.”

Source: “It is time for a new direction in sexual offense policy,” by John Covert, Arizona Capitol Times, February 28, 2024

Note from the editor: MI-CURE agrees that registries are ineffective and unnecessarily punitive. For that reason, we have begun participating in an effort to form a collaborative that will advocate for the abolition of registries throughout the country.

EXONERATIONS

The National Registry

The National Registry of Exonerations reports that 153 people were freed from prisons last year. The increase is due to more innocence organizations and conviction integrity units working on cases. The majority of the wrongful convictions (77%) were due to “official misconduct” of police, prosecutors, or others in the system. Other reasons for exonerations included ineffective counsel (59 cases), mistaken witness identification (50 cases), false or misleading forensic evidence (43 cases), and false confessions (32 cases).

Since 1989, the National Registry has recorded 3,478 exonerations. Since 2019, the total compensation paid to exonerees has nearly doubled and now exceeds \$4 billion.

Women Exonerated

During Women’s History Month, the Innocence Project reported on the issue of women exonerated over the past three decades. The report included eight facts about women incarcerated in the U.S.

1. The population of women in state prisons has grown at more than twice the rate of the population of men in state prisons. Between 1978 and 2015, the female state prison population grew by 834%.

2. Women are disproportionately incarcerated in jails; more than half of them (61%) have not yet been convicted of a crime.
3. Most incarcerated women are mothers. More than 60% have children under the age of 18.
4. Nearly 300 women have been exonerated since 1989.
5. Most female exonerees (73%) were convicted of crimes that never occurred. The crimes were later determined to be accidents, deaths by suicide, and crimes that were fabricated.
6. More than a quarter of female exonerees were wrongly convicted of harming a child in their care.
7. Only 15 women have been exonerated with the help of DNA evidence.
8. False or misleading forensic evidence contributed to wrongful convictions of 110 women who have since been exonerated.

Forensic Science and Wrongful Convictions

The Wisconsin-based Center for Integrity in Forensic Sciences (CIFS) examines ostensible scientific evidence to see whether it backs up prosecutors’ claims. CIFS has two goals: (1) to strengthen the reliability of forensic science in criminal cases by promoting crime laboratory independence from law enforcement funding streams and oversight; and (2) to work to educate the public about the need for independent crime laboratories and other forensic science professionals in order to restore faith that justice can be obtained in our courtrooms. Its website notes that, “Of innocent people whom DNA testing has freed, a shocking 24% had trials that featured mistaken, exaggerated, or outright false testimony from purported forensic scientists.” A recent article summarized some of their findings.

Ballistics can tell if a projectile came from a specific type of gun; it cannot identify the specific gun. A **hair** with its root can provide DNA evidence. However, comparisons of color and texture (even when examined with a microscope) have led to many wrongful convictions. **Bite marks** are not even good enough to count the number of teeth, let alone the person who left the marks. Burn patterns historically used to identify **arson** have been found at fires where arson was not involved. Medical evidence used to identify **shaken babies** has been found to exist in babies who died of other causes.

Compensation for Wrongfully Convicted - Michigan

Michigan’s Wrongful Imprisonment Compensation Act (WICA), which took effect in 2017, was a compromise. Some lawmakers were concerned that claimants might raise facts and evidence that had already been considered by a court. Some worried that guilty people might benefit. As a result, the act’s benefits are aimed at a narrow set of circumstances. To qualify, there must be “new evidence” that the person was not a perpetrator or accomplice. That new evidence must be “clear and convincing.” That means that someone who was convicted because of suppressed or insufficient evidence, ineffective legal counsel, official misconduct, discredited science, or other reason is not eligible for compensation.

Some have been denied compensation despite new evidence. Judges acknowledged the new evidence, but the official basis for overturning the conviction was prosecutorial misconduct and/or ineffective counsel. Therefore, compensation was denied.

Marla Mitchell-Cichon is counsel to the Innocence Project at the Thomas M. Cooley Law School. She worked to get the law passed and now says, "I did not imagine how actually harmful this law was going to be." One Supreme Court Justice, after denying someone compensation, commented, "I don't like administering legal rules that I can't explain to the people they impact. Please fix it legislators."

Legislation (HB 5431) has now been introduced to repair these flaws. The bill would change the standard of proof from "clear and convincing" to a "preponderance" of evidence that they were not the perpetrator or accomplice. It would allow certain exceptions to the new evidence requirement. An individual would qualify for relief if there was insufficient evidence to support their conviction or if new evidence was available but the conviction was vacated for other reasons. The bill would ensure that time spent in pretrial detention would count as time spent wrongfully convicted. People who were pardoned by the governor would also be able to file a claim.

Compensation for Wrongfully Convicted – Other States

New York has paid more to wrongfully convicted people than any other state — \$322 million. Of 326 people exonerated in the state, they have compensated 237. The other states ranked in the top five for payouts include Texas, Connecticut, Maryland, and Michigan. Texas paid \$155 million to 128 of 450 exonerees.

Sources: "Exonerations in the U.S. are slowly rising. 3 people were cleared in Kansas and Missouri last year," by Peggy Lowe, KCUR, March 18, 2024; "8 Facts About Incarcerated and Wrongfully Convicted Women You Should Know," by Daniele Selby, Innocence Project, March 12, 2024; "Hair Sample That Put a Man in Prison Turned Out to Be Dog Hair," by Lenore Skenazy, REASON, January 18, 2024; "They Were Wrongfully Convicted. Now They're Denied Compensation Despite Michigan Law," by Anna Clark, ProPublica, January 5, 2024; "Michigan Lawmakers Working to Fix a Program That Failed to Compensate the Wrongfully Convicted," by Anna Clark, ProPublica, March 25, 2024; "New York has paid record \$322m to people wrongly incarcerated since 1989," by Gloria Oladipo, The Guardian, January 17, 2024

CONDITIONS OF CONFINEMENT

Legislating Improvements

Base on recommendations from stakeholders (including formerly incarcerated, their families, corrections officers, staff, and advocacy groups), Wisconsin lawmakers introduced a package of bills designed to improve conditions in the state

prisons and jails. One bill would amend the state's constitution to ban slavery for people in jails and prisons and raise the minimum wage for incarcerated people to \$ 2.33 an hour.

The bills also call for the following:

- Culturally sensitive products and universal credit for incarcerated people.
- Free feminine hygiene products.
- Four baths with heated running water per week.
- Two visits, including the ability to embrace a loved one for 20 seconds.
- Required recreational activities for 7 hours a week, and structured programming for 14 hours per week.
- More rights for people in solitary confinement including access to writing utensils, hygiene products, and 25-minute visitation privileges.
- Electronic credits for emails, video calls, and other media.
- Climate control to prevent overheating or hyper-cooling.
- Outdoor time for state prison residents.
- The creation of a public dashboard on solitary confinement, lockdowns, and complaints.
- Access to jails and prisons by the public and legislature for oversight purposes.
- Providing written documentation to incarcerated people explaining their rights under the U.S. and state constitutions and relevant laws.
- A constitutional amendment giving county government oversight authority for jails, rather than leaving them to the county sheriff's office.

State Representative Ryan Clancy was quoted, "This is not the solution to mass incarceration. This is harm reduction to the incredible damage that we do inherently when we incarcerate people.

Conditions for the Elderly

People in prison age more rapidly than people outside. Because of sentencing and release policies, the population of elderly prisoners has grown rapidly. "The proportion of state and federal prisoners who are 55 and older is about five times what it was three decades ago." In 2022, there were more than 186,000 people in that category. Those figures present many challenges.

Prisons are not equipped to handle geriatric medical issues. Doors are not wide enough to accommodate wheelchairs. Upper bunks are not accessible for people with disabilities. Sinks are not designed for people in wheelchairs. Nurse call buttons are not available. There may not be enough electrical outlets to handle medical equipment. Feeding and providing medical care for people who are not mobile is a problem. Finding staff that have expertise in dealing with the aging populations is also a challenge.

Some states have built new facilities or retrofitted existing facilities to house the elderly. The Transitional Care Unit in Minnesota houses 54 people. There is a clinic where individuals can receive medical treatment and there is round-the-clock nursing care. Cells have call buttons, sinks accommodate wheelchairs, and each cell has a glass door.

In some systems, incarcerated people help to care for the elderly. While that is helpful, it does not address the medical issues. There is no sound data on just how expensive this health care is. A 2015 report by the Justice Department's Office of the Inspector General reported that federal prisons with the highest percentage of elderly prisoners spent five times more per person on medical care than those with the lowest percentage of aging prisons.

It is critical that systems plan for the programming needed. It is also time to think about who we are incarcerating and why.

Is the Isolation Productive? Were Past Policies Better?

Reiko Hillyer is an associate history professor at Lewis & Clark College who teaches at the Columbia River Correctional Institution in Portland, Oregon. That experience led her to wonder if "prison walls had always been so impenetrable." In researching historical practices, she found many instances of incarcerated people leaving institutions to participate in community events. Incarcerated musicians in Virginia left the penitentiary to perform concerts. Others were given furloughs to participate in high school chess tournaments. When it was built in 1927, the stated mission of the Norfolk Prison in Massachusetts was to keep incarcerated people engaged with, rather than removed from, the outside world. Malcolm X was incarcerated at Norfolk from 1948 to 1952. While there, he debated university teams as a member of the Norfolk Prison Debating Society. New York's Wallkill Correctional Facility was constructed in 1932 in the style of a college campus, without walls or fences. "(W)hen eight incarcerated people escaped one year later, the *New York Times* declared, 'Wallkill Prison without Walls a Success; Only Eight Break Trust in an Air of Freedom.'"

Even in the 1990s incarcerated individuals were given furloughs for the Christmas holidays, to visit relatives, to perform in concerts, and to participate in professional boxing matches. Many states provided conjugal visits for the incarcerated.

Eventually, clemency became politicized. Victim impact statements became part of the sentencing process. There was a growing sense that habitual criminals were gaining rights at the expense of law-abiding people. Incarcerated people were more often measured by the crime(s) they had committed. "(F)or the first time, furlough eligibility was based on the class and nature of the original offense rather than one's institutional record. The rigid logics of risk management not only chain incarcerated people to their past but, like a kind of postmodern phrenology, purport to determine the future."

Wages for the Incarcerated

Last year, New Jersey Governor Phil Murphy included \$2.6 million in the state budget to increase wages for work performed by incarcerated people. Budget documents developed by prison officials said that pay for prison jobs would increase between 25 cents and a dollar a day. They also changed departmental policy to require officials to review wage rates every two years to ensure they were "appropriate" in relation to commissary and communication costs.

The state is nine months into the budget year and the department has not paid a dollar of those funds. If they don't use the funds by June 30, they will be lost. (Unspent funds are returned to the state's general fund.)

A department spokeswoman said they are now "evaluating all job categories and pay rates across facilities to determine wage increases that are fair and equitable for the thousands of incarcerated persons employed within the Department." She had no target date for completion of that work. Department officials insist the raises will happen.

Sources: "Bills introduced to improve conditions in jails and prisons," by Isiah Holmes, Wisconsin Examiner, November 3, 2023; "The U.S. prison population is rapidly graying. Prisons aren't built for what's coming," by Meg Anderson, NPR, March 11, 2024; "Unmaking Prison Walls," by Reiko Hillyer, Inquest, February 20, 2024; "Incarcerated people still waiting on pay raises promised over a year ago," by Dana DiFilippo, New Jersey Monitor, March 20, 2024

REENTRY

Electronic Monitoring

The Vera Institute of Justice recently completed a study on the use of electronic monitoring (EM) in the country's criminal legal systems as well as the immigration system. Within the criminal legal system, EM is used in pre-trial situations and following release from prison.

While it is sometimes perceived as an alternative to incarceration, in many jurisdictions, it does not result in a reduction in the number of people detained.

A 2021 survey of nearly 150 people monitored with ankle devices by ICE found that 90% experience pain or discomfort from the device and 20% experienced electric shocks and injury. A significant majority (88%) reported negative psychological impact, including anxiety, depression, sleep disruption, and social isolation. Individuals monitored by criminal legal systems report the same issues.

Many monitored people report

- problems with vague or overlapping rules.
- difficulty managing day-to-day tasks.
- long-term debt due to fees associated with monitoring.
- that EM interferes with their employment.

- device malfunctions resulting from faulty batteries, audio defects, and connectivity issues that result in false alarms.

Challenges to EM have been increasing. There has been litigation in North Carolina, Wisconsin, Arizona, and California. Legislation has imposed some limits in New York and Illinois. Demonstrations and campaigns have been organized in Wisconsin, and Indiana. The Challenging E-Carceration foundation has been created.

Some jurisdictions are now using EM apps on smartphones instead of wearable GPS devices. This leads to concerns of rapid expansion of monitoring and potentially stricter control than older devices. There is also a concern about the potential for accessing personal information from phones. In some cases the software has proven to be unreliable.

Vera's findings contradict the assertions of private companies that EM technology is low-cost, efficient, and reliable.

The report includes the following policy recommendations:

- The federal government should enact a national reporting requirement for EM.
- Local, state, and federal agencies should keep standardized data on EM programs and make reports publicly available.
- Private companies should not run EM programs.
- The government should undertake greater oversight of EM technologies, especially smartphone apps and wristwatch devices with biometric capabilities.
- EM conditions should be the least restrictive possible.
- Agencies administering EM programs should eliminate user fees.
- Time served on EM pretrial should count toward any future sentence.
- The criminal legal and immigration systems should restrict the use of detention as a punishment for violations of EM conditions.

Editor's note: MI-CURE believes that electronic monitoring is unacceptable under any circumstances.

Housing

Council of State Governments Justice Center recently partnered with the Bureau of Justice Assistance and the U.S. Department of Housing and Urban Development to host the first-ever national reentry housing symposium. The focus of the event was on the vision of "zero returns to homelessness." Participants included federal officials, state and local leaders, reentry housing practitioners, and people with lived experience.

Discussions led to three major themes:

1. No one system can do this work alone. "Effective reentry housing initiatives are built on a foundation of structured collaboration between the justice,

housing, health, and behavioral health systems in ways that maximize the limited resources of each."

2. People with lived experience must be included in policy change and plans for new housing developments to effectively meet their needs. Efforts must include people with lived experience with both homelessness and the criminal justice system.
3. Federal agencies are committed to achieving zero returns to homelessness and are important partners as state and local officials work to increase housing opportunities.

Legislation

Wisconsin's governor recently signed legislation to create a reentry center in each region of the state. The Department of Corrections will contract with a nonprofit organization, for-profit entity, or public agency to provide health, identification, financial, housing, employment, education, and supervision services for individuals leaving a state prison. The center must be easily accessible to those served and accessible by public transportation, if available. The organization must collect data on the services provided and produce biennial reports on people served, services rendered, and outcomes.

Sources: "People on Electronic Monitoring," by Jess Zhang, Jacob Kang-Brown, and Ari Kotler, Vera Institute of Justice, January 2024; "Federal, State, and Local Leaders Gather for First-Ever National Reentry Housing Symposium," by Joey Hayashi, Council of State Governments Justice Center, January 29, 2024; 2023 Wisconsin Senate Bill 172

PRISON FOOD

In Georgia

In a recent article, Carla J. Simmons describes food service in Georgia prisons. The experiences of this author are similar to the experiences of our correspondents in Michigan prisons.

The food service here "has never been good, but now it is deplorable. For one thing, the portions are always shamefully small.... Additionally, the meals are poorly prepared — beans are half cooked, eggs are scorched and everything is cold. The food is sometimes inedible and always difficult to swallow."

Simmons explains that officers used to pat-search people leaving the dining hall to make certain those individuals were not taking food from their trays. No one is searched now. "(T)here isn't enough staffing to micromanage meal times, but no one takes food from their tray unless they absolutely have nothing else to eat. Anyone who can will avoid meals altogether by eating commissary food or food from their work details."

As with Michigan commissary offerings, the commissary food in Georgia has taste, sanitation, and quality. But it is not nutritious and does not include fresh fruits and vegetables or unprocessed meat.

Simmons writes that in Georgia it may be difficult to find an incarcerated person who hasn't eaten food from a trash can. "It's a common practice for detail officers to intentionally leave half-eaten food in their waste baskets and then ask 'their inmates' to come change the trash."

Vera Institute

The Vera Institute has concluded that, "Penny-pinching on food services fleeces incarcerated people and their families and has adverse health impacts, all while lining the pockets of corporations. Better ways exist."

Vera reports that most states spend less than \$3 per person per day for food service. According to an Impact Justice investigation, 62% of survey respondents said they rarely or never received fresh vegetables; nearly 55% said they rarely or never received fresh fruit. Three out of five formerly incarcerated people reported they could not afford to purchase anything from the commissary.

The U.S. Department of Justice reports that 44% of people incarcerated in federal or state prisons report ever having a chronic illness. In the general population, that figure is 31%. It only takes four weeks of eating a poor diet to cause lasting impact.

Prison systems artificially meet health requirements, especially calorie minimums. Meals are packed with refined carbohydrates. Powdered drinks provide nutrients found in whole foods. It doesn't have to be this way!

"Mountain View Correctional Facility in Maine operates a garden and bakery staffed by the people incarcerated there.... The program saves the prison nearly \$100,000 yearly, reducing reliance on vendors and, for residents, the commissary."

"The Washington (State) Department of Corrections and Evergreen State College run beekeeping and composting programs onsite and coordinate with local partners to harvest fresh produce, which is shared among all 11 state prisons as well as with nearby food pantries. (In 2018 there were 246,700 pounds worth.)"

"In October 2023, California Governor Gavin Newsom signed into law the Basic Affordable Supplies for Incarcerated Californians Act, aiming to curtail commissary price gouging.... (In December, New York State senators introduced the Rights Behind Bars bill which crucially would mandate regular access to 'wholesome and nutritious food (including fresh fruits and vegetables)."

The Appeal

On its website, The Appeal describes itself as "(A) nonprofit news organization that envisions a world in which systems of support and care, not punishment, create public safety." After compiling "a first-of-its kind database of prison commissary lists from 46 states," the organization confirms many of the

problems associated with prison commissaries. "Taken together, the prices reveal an exploitative, inconsistent system that requires incarcerated people to purchase many necessities at high markups."

Sources: "Food Insecurity in Prison Makes People Like Me Vulnerable to Labor Exploitation," by Carla J. Simmons, *Truthout*, January 17, 2024; "Cheap Jail and Prison Food is Making People Sick. It Doesn't Have To," by Elizabeth Allen, *Vera Institute*, February 27, 2024; "Locked In, Priced Out: How Prison Commissary Price-Gouging Preys on the Incarcerated," by Tara Francis Chan, *The Appeal*, April 17, 2024

LITIGATION

Jail Visiting in Michigan

Lawsuits have been filed against both Genesee and St. Clair county jails seeking preliminary and permanent injunctions to block them from continuing to enforce a ban on in-person visitations. The lawsuit also includes the telecommunication companies Platinum Equity LLC and Securus Technologies LLC alleging that they are conspiring to prohibit in-person visits.

The lawsuit alleges that jail officials in each county implemented policies that prohibited in-person visits and made phone calls, video calls, and electronic messages the only way families and friends could communicate with incarcerated individuals. The suit claims that those decisions "were 'part of a quid pro quo kickback scheme' with the companies to charge the families 'exorbitant rates to communicate with one another through services such as low-quality phone and video calls.' And, the complaints state, county officials agreed to prohibit in-person visits at the jails in exchange for a 'substantial cut' of the companies' future revenue." The suits are seeking class-action status on behalf of all people denied in-person visits.

The Genesee County complaint asserts that the phone company (GTL) pays the county at least \$240,000 a year in grants and call revenue. The St. Clair County complaint asserts that Securus pays the county nearly \$500,000 in commissions and guaranteed payments. The suits also allege that if a video call does not work for any reason, the cost of the call is not reimbursed. Both contracts allow for termination of the contract if the video call volumes are insufficient.

The lawsuits claim that, "Defendants cannot, consistent with the Michigan Constitution, conspire to prohibit in-person family contact as part of a scheme to make money. This scheme violates Michigan law, offends basic principles of human connection and dignity, and imposes profound costs on families."

Access to Counsel:

Attorney Frank J. Lawrence was recently appointed to represent Christopher Scott Merrill in a lawsuit alleging inadequate dental care by the Michigan Department of Corrections. Prior to the pandemic, Lawrence had always contacted prison officials to arrange client visits or phone calls. There was no charge for either. During the pandemic, in-person visits were suspended, but phone calls continued as before. At some point in the process, Lawrence was told that all visits and phone calls must be scheduled through GTL, unless the attorney is associated with the State Appellate Defenders Office (SADO).

To use GTL, Lawrence would have to accept its “Terms of Use” and “Privacy Policy.” He had issues with both. He would have been required to release GTL from any damages, losses, or liabilities arising from his use of the service. He would also have to release GTL, “its affiliates, employees, contractors, and agents, all applicable Law Enforcement Officials and the correctional facility from all liability which may result from use of GTL’s websites and services and use of data.” With some exceptions, users must indemnify GTL from and against any claims, damages and costs arising from the use of its services. GTL warns users that it collects extensive personal information and may share that information with the facility and other unaffiliated third parties. Attorney calls are excepted from monitoring only if prison staff have verified the attorney’s number. The calls are subject to a per-minute call.

The plaintiff requested an injunction ordering the MDOC to provide at least two one-hour phone calls per month (without charge) and two in-person meetings per month without charge and without going through GTL.

The court ruled as follows: “Plaintiff’s motion for reasonable access is **GRANTED**. While this litigation is pending, MDOC shall allow Attorney Lawrence to arrange two, one-hour telephone calls and two visits with Plaintiff, each month, both without charge and without the requirement to utilize GTL. MDOC should propose a reasonable protocol for Attorney Lawrence to schedule these communications.”

Sources: “Lawsuits: St. Clair, Genesee counties conspire with telecom firms to gouge inmate families,” by Christina Hall, Detroit Free Press, March 21, 2024; “Jails banned visits in ‘quid pro quo’ with prison phone companies, lawsuits say,” by Jon Brodtkin, ars technica, March 29, 2024; Christopher Scott Merrill v Gretchen Whitmer, et al., U.S. District Court, Eastern District of Michigan, Southern Division, Case No. 22-cv-10541

WITH SYMPATHY

Since publication of our last newsletter, we have learned of the deaths of MI-CURE members and supporters Gary Ashby and Rev. Donald Henkes.