

NV-CURE (*Citizens United for the Rehabilitation of Errants*)

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“STRUGGLE IN SOLIDARITY”

“The cruelest tyranny is practiced behind the shield of law and order”

INFORMATIONAL BULLETIN NEWSLETTER

July 2018

No. 30

NDOC Working on AB 510 Good Time Calculations

The NDOC is currently working on AB 510 good time sentencing structures. The following information was provided by the NDOC on the AB 510 good time matter.

“OMD is aware of the AB 510 and is currently working on inmate sentence structure. We are being told no additional submissions/requests need to be submitted on your behalf at this time as they are aware of who qualifies and are diligently working on “Williams Decision””; and

“Untitled

The Williams opinion only applies to offenses committed 7-17-97 to 7-1-07 and for inmates whose offense was committed after 7-1-07, after AB 510 became effective, they will remain under the current practice and if they were not eligible per subsection 8 then the Williams or Vonsejdewitz decisions would have no impact on their sentence structure/credits.”

NV-CURE is aware that the NDOC OMD (Offender Management Division) is currently working on re-computation of prisoners’ AB 510 good time sentence structures and that, as we have repeatedly stated, the Vonsejdewitz and Williams decisions only apply to offenses committed between 7/17/97 and 7-1-07. After that, the exclusions set forth in subsections 8 of NRS 209.4465 apply. We do not agree with the exclusion for various offenses from receiving the additional good time, however, the exclusions were enacted by the Legislature, the bill passed and those exclusions apply to offenses committed after 7/1/07 – unless another constitutional problem arises.

The problem for NV-CURE is with the failure of OMD to wait 11-1/2 years before seriously addressing this problem and recalculating all impacted prisoner sentences way back in July of 2007. This failure by OMD to re-calculate sentences way back then, caused by the Office of the Attorney General, has resulted in hundreds, if not thousands, of prisoners being held in prison past their parole hearing dates and for them being held in prison way past their potential release dates. This delay has cost the tax payers of Nevada hundreds of millions of dollars, if not more than a billion dollars. This is outrageous and all tax payers must be made aware of this before the next election. The people responsible must be voted out of office and their underlings fired from their jobs and never again be employed in our government.

NDOC Response to ACCESS Price Comparisons

In our Newsletters No. 27 and No. 29, NV-CURE published articles concerning the different prices charged by ACCESS to Nevada and California prisoners. We have since received additional information, including a Memorandum from Stephen Pacelo, Inmate Commissary Section Manager, to a prisoner stating the following:

“Thank you for your inquiry. In response to your letter to the Director dated 12/26/17 regarding Access SecurePak Package Program pricing in comparison to the State of California; California is different from Nevada in several ways; California does not have their own commissary like Nevada does and strictly uses the package program for their inmates.

Package program pricing comparison between Nevada and California differ because pricing is based on population and volume. California has an inmate population of approximately 130,000 inmates whereas Nevada has approximately 13,818 inmates. Nevada also hires off duty staff to deliver packages to inmates whereas California uses staff to deliver.

In regards to commissary pricing and package program pricing; they are two different contracts. Commissary pricing is set by the contract based upon inmate population, volume and fund the Inmate Welfare Fund.”

We have received information from a CA prisoner that they do have a commissary and they do receive quarterly and specialty (electronics) packages from ACCESS. Feel free to check the facts.

Read the response and understand the process. Prices are set by “contract” and part of the profits from the higher prices to Nevada prisoners goes into the Nevada Inmate Welfare Fund – which helps the State of Nevada to defray the costs of your incarceration. Stated clearly, you are helping the State to pay for the costs of your incarceration. It may be time to negotiate a new contract for lower prices and to prohibit part of the profits from the sales going into the Inmate Welfare Fund. (Same with the NDOC share of profits from prisoner telephone calls). Why should you and your family be charged higher prices to defray the costs of prisoner incarceration?

ACCESS PACKAGE PROGRAM

By: Don Sherman, Death Row

I’d like to thank all those involved in researching *Access Package* price differences and procedures. It is unacceptable! An obvious abuse of our limited programs here in NDOC, and it must end. The people being exploited by the NDOC are our families and friends!

If you want to change this, it’s very simple. Start a campaign to call and email Director Dzurenda! I’m talking about a flood of calls! Thousands! Do it several times a day, non-stop, until he responds and agrees to address this issue.

There are two main reasons why our package prices substantially higher than other states.

1. The contract with NDOC on the “percentage kickback” is obviously much higher than normal and needs to be adjusted.

2. The \$5.00 delivery fee that an NDOC employee gets from Access just to bring us our package! This fee was started because NDOC staff did not want to pass out packages as part of their regular duties.

There have been little to no programs here for so many years. When staff see inmates begin to benefit from programs, they have a negative response due to the prevalent “anti-inmate” mentality that has existed here for a very long time. So, staff would refuse to pass out packages.

Instead of ordering staff to pass packages out, the NDOC and Access agreed to pay \$5.00 per package to any employee willing to pass out packages. This cost is passed down to prisoners and their families. If 10,000 packages come to NDOC, that’s \$50,000 in delivery fees! Access isn’t going to

eat that cost, you can be sure. So, Access increases the prices to cover that cost.

And if we think about it, it’s ridiculous! Packages are basically...mail, and the mail must be passed out by staff as part of their jobs. What’s next? Will some NDOC employee tell me that they will deliver canteen, for a \$5.00 fee?!

In the end, NDOC must stop these abuses of our programs. These packages benefit us, our families, and the state. The state collects tax revenue off clothing packages and saves tens of thousands of dollars by not having to provide us clothing, shoes, bedding, etc., because our families are providing us with those items through the package program.

Please contact Mr. Dzurenda and ask him to reform this program immediately. We want the same prices, promo deals and items available to California inmates.

Prison Committee Assistance

By Craig Caples

In the last NV-CURE newsletter, the word went out for volunteers to help with reviewing and making suggestions to revise or make changes to the AR’s (Administrative Regulations) and OP’s (Operating Procedures).

STOP! We currently have more than enough volunteers representing all of the major yards. Thank you all. Several volunteers have asked not to be identified or listed, and we will respect that request. But be sure, NV-CURE recognizes your suggestions and contributions.

Several volunteers have already made suggestions when sending us their request to be on the committee, and we have already made note of the suggestions. I will continue to communicate with you individually by mail on the issues.

In all honesty, the NDOC and Board of Prison Commissioners have still not decided if they are going to accept NV-CURE suggestions. AR 100 states that only law enforcement agencies can make suggestions or changes. We are appealing to the Board of Prison Commissioners to change this AR. It is our belief that organizations like NV-CURE and the ACLU should be able to make suggestions that are based on humanitarian and common-sense issues without affecting the goal of the NDOC.

There will be some new members of the Board of Prison Commissioners in January, and if this Board is not receptive, maybe the new one will be.

Nevada Elections and Prison Reforms

By Craig Caples

The primary elections are over, and the political lines have been drawn. In the last legislative session, the Democrats controlled both the Assembly and the Senate in Nevada. There were a lot of very positive bills brought before the legislature that affected the way NDOC was run, and bills that focused on prison reform. Other bills died in committee, or the Governor did not sign others.

What does this have to do with YOU and why should this concern you? You don’t have the right to vote. However, your family and friends can make a difference – and you can influence them. It is important that the state legislators, both

Assembly and Senate, have representatives that are receptive to prison reforms.

NV-CURE is currently interviewing those that are running for office. We are specifically interested in determining the positions of each of them on various of prison reforms. We are interested in talking to all the candidates and intend to talk to every candidate running for Assembly and Senate to determine their positions on positive changes in the NDOC and Parole and Probation systems.

Once we have determined the positions of the candidates on issues related to prison reform, we will try to publish their positions and ideas. This is where ALL OF YOU must take action. Give this list of candidates and positions to your friends, family, and loved one. Urge each to VOTE for those candidates whose positions on the relevant issues coincide with your beliefs regarding various prison reforms.

If this is done, you and your people will have a voice in the next legislative session.

Who knows, maybe someone will even introduce a bill to allow inmates to vote. Prisoners in both Maine and Vermont are allowed to vote in elections. So should you be allowed to vote. We doubt it will happen in Nevada any time soon, but it could.

Your action could make a big difference, Now and in the Future.

Thank You VVA For Donation

NV-CURE hereby extends a Thank You to the VVA Chapter at LCC for their \$500.00 donation to our 501(c) non-profit corporation. Those funds were raised from the recent VVA Chapter food fundraiser at LCC. The funds donated to us will be used towards the costs of publication of this Newsletter. Thank you VVA and we will be sure to refer LCC prisoners to your organization in the future. Again, thank you for your donation.

Establishment of NV-CURE Chapter at LCC

NV-CURE urges all of our Members at LCC, and all other major NDOC facilities, to establish a NV-CURE organization at LCC or their respective institutions. With a NV-CURE organization at your facility, the organization would be able to conduct their own fundraising events and raise funds for our organization to use in our activities. Those funds would be used for publication of this newsletter and our advocacy activities for constructive changes to the prison and parole systems. We could use your help.

NV-CURE is an IRS 501(c) tax exempt non-profit organization. We are all volunteers and none of us, except the Directors, get paid. Our Members on the Board of Directors each receive \$1.00 per year as compensation for our work – and each of us donate that \$1.00 back to our organization each year. We definitely are not in the advocacy business for the money. We are here for the constructive changes we may help make in the prison and parole systems in Nevada and across the Country.

As a group, you could hold fundraising events for NV-CURE. These fundraising events usually result in a net donation to the fundraising organization anywhere from \$3,000.00 to \$10,000.00 after all costs of the event are paid. NV-CURE would use any funds raised in these events for publication of this newsletter and our advocacy activities in front of the ACAJ, Prison Commission, Prison Commission and Legislative activities, which are the main brunt of our activities. The more funding we have, the more we can do for you.

Get busy and get organized. Help us to help you.

Grant Writer and Fundraiser Needed

NV-CURE is in need of a grant writer and fundraiser for our non-profit corporation. Right now we are totally dependent on donations from our Members and Supporters. We are doing fairly well with what we have, however, we could do much more with additional funding. We need a grant writer and fundraiser to secure more funding for us to do the things we need to do to make constructive changes to the Nevada prison and parole systems and to end mass incarceration. If you know anyone in the community with experience in writing grant applications and fundraising activities interested in working with us, please have them contact our office.

There are thousands of people out here with money willing to donate funds to a good cause. Help us tap into that money for all of our benefit. Thank you.

NV Sentencing Commission

During the 2017 Legislative Session, SB 451 was passed. This bill created the NV Sentencing Commission. This Commission is similar to the ACAJ (Administrative Committee on the Administration of Justice) and will study sentences and make a recommendation to the Legislature regarding criminal justice reforms in the sentencing process. Anyone desiring to know more regarding the Sentencing Commission should write a letter requesting a copy of the bill to: Legislative Counsel Bureau, 401 S. Carson St., Carson City, NV 89701-4747.

NV-CURE Legislative Committee will include dealing with Sentencing Commission issues. We still need people in the community to help keep track of legislation and attend ACAJ Meetings and/or Sentencing Commission Meetings. Anyone in the community wanting to help the NV-CURE Legislative Committee should write to us, Attn: Sara Bartel, at our office address.

Rumor is Hep C Cases Being Settled

Rumor is that a bunch of NV prisoner civil rights cases to secure treatment for hep c are being settled by the Office of the Attorney General. These cases are allegedly being settle for treatment for the hep c cure. Any truth to these rumors? If you settled a hep c case for cure treatment, please send us a copy of your settlement agreement.

Please be sure the documents sent indicate the settlement agreement resolves a hep c treatment case and the terms of the settlement include the administration of the cure for the disease.

States of Incarceration - Global Context 2018

180606 PLN Article on World Incarceration

There is an excellent article in the June 6, 2018, issue of PLN (Prison Legal News) on States of Incarceration and The Global Context by Peter Wagner and Wendy Sawyer from May of 2018. It reflects the reason why the USA is the leader of mass incarceration on Planet Earth and a must read for all.

With State Incarceration Rates treated as Countries, by far the leaders on incarceration are the United States of America and the USA States. With 217 countries (including the 50 states),

The USA and 50 states occupy the highest incarceration rates for the highest positions. This is horrendous. Ranked #17 is Nevada and Massachusetts is ranked #60. Only nine (9) countries have a higher incarceration rate than eighteen (18) USA States. Those countries are: El Salvador (#33), Turkmenistan (#36), Cuba (#42), Thailand (#44), Rwanda (#49), Russian Federation (#50), Panama (#52). Costa Rica (#53) and Brazil (#59).

Oklahoma now has the highest incarceration rate in the U.S., unseating Louisiana from its long-held position as "[the world's prison capital](#)." By comparison, states like New York and Massachusetts appear progressive, but even these states lock people up at higher rates than nearly every other country on earth. Compared to the rest of the world, every U.S. state relies too heavily on prisons and jails to respond to crime.

It is way past time to end MASS INCARCERATION IN THE USA. Take the profit away from all corporations and states profiting from incarceration, require ALL STATES to pay for adequate medical care, rehabilitation programs, re-entry facilities and reduce incarceration rates to NO MORE THAN 200 per hundred thousand people – on par with Singapore and Paraguay.

WAKE UP AMERICA! You want to incarcerate – pay the price!

About the authors

Peter Wagner is an attorney and the Executive Director of the Prison Policy Initiative. He co-founded the Prison Policy Initiative in 2001 in order to spark a national discussion about the negative side effects of mass incarceration. Some of his most recent work includes [Following the Money of Mass Incarceration](#), examining the cost of imprisonment in the U.S., including who benefits and who pays. He is @PWPpolicy on Twitter.

Wendy Sawyer is a Senior Policy Analyst at the Prison Policy Initiative. Most recently, she authored [Youth Confinement: The Whole Pie](#) and [The Gender Divide: Tracking women's state prison growth](#).

Peter and Wendy also recently co-authored the Prison Policy Initiative's report [Mass Incarceration: The Whole Pie 2018](#), which features a series of innovative data visualizations to provide a comprehensive view of the various systems of confinement in the United States.

About the Prison Policy Initiative

The non-profit, non-partisan Prison Policy Initiative was founded in 2001 to expose the broader harm of mass criminalization and spark advocacy campaigns to create a more just society. The organization is known for its [visual breakdown of mass incarceration](#) in the U.S., as well as its data-rich analyses of [how states vary](#) in their use of punishment. The Prison Policy Initiative's research is designed to reshape debates around mass incarceration by offering the "big picture" view of critical policy issues, such as [probation and parole](#), [women's incarceration](#), and [youth confinement](#).

END MASS INCARCERATION NOW – TAKE PROFITS OUT OF INCARCERATION

Decision for Hearing Impaired

180413 PLN 9th Cir Deaf Case

Ninth Circuit Reverses Dismissal of Deaf Former Prisoner's ADA Claims.

Jail officials "may not turn a blind eye to a deaf ear," the Court of Appeals for the Ninth Circuit fittingly declared in an August 31, 2017 ruling that reversed a summary judgment order in a lawsuit filed by a deaf former prisoner.

David Updike was born unable to hear and communicates primarily through American Sign Language (ASL). He does not read or speak English well. Having never heard English words, he is not proficient at lip reading because he does not know the shape the lips make to produce certain words. All of Updike's friends and his ex-wife are also deaf, and he "lives in the deaf world."

On January 14, 2013, police were called to Updike's home in Gresham, Oregon for a domestic disturbance. Dispatchers were told the disturbance involved deaf people, but the responding officers did not bring an ASL interpreter with them. Despite claiming that a deaf houseguest had assaulted him after he refused to give the guest money, Updike was arrested and taken to the Multnomah County Detention Center (MCDC) for booking.

MCDC has a telecommunications device (TDD) for deaf prisoners, and the county contracts with a private company to provide ASL interpreters at the jail. During his two days in jail, Updike repeatedly requested an ASL interpreter and a teletypewriter (TTY). His requests were repeatedly denied.

He was not provided with any accommodation for his hearing disability while he was questioned by police officers or during the booking process, a medical intake interview, a recognizance interview, a classification assessment and arraignment. In short, Updike was not given any access to an ASL interpreter, a computer, a TTY, video relay service, or pen and paper during his incarceration. He could not call his attorney or family members without a TTY device and could not watch television because there was no video relay service or closed captioning. He was ultimately held at the jail a day longer than he would have been if an ASL interpreter was available at his initial arraignment.

Updike filed suit in federal court against the City of Gresham, Multnomah County and the State of Oregon on September 13, 2013. He alleged the defendants violated the

Americans with Disabilities Act (ADA) and Rehabilitation Act by repeatedly failing to accommodate his hearing disability during his arrest and confinement. He sought injunctive relief, compensatory damages and attorneys' fees and costs. The City of Gresham settled a few months later. The district court then granted summary judgment to the state and county defendants.

The Ninth Circuit affirmed the grant of summary judgment on Updike's injunctive relief claim because he was no longer incarcerated and could not show that the ADA violations were likely to recur. However, the appellate court reversed the summary judgment order with respect to the compensatory damage claims.

"To deny a deaf person an ASL interpreter, when ASL is their primary language, is akin to denying a Spanish interpreter to a person who speaks Spanish as their primary language," the Court of Appeals wrote. "An ASL interpreter will often be necessary to ensure communication with a deaf person who has become enmeshed in the criminal justice system. At a minimum, officials must conduct an adequate investigation into what accommodations may be necessary to permit effective communication of the deaf while incarcerated."

The Court therefore reversed "the district court's holding that no evidence in the record created a genuine issue of material fact on whether the County violated the ADA or the Rehabilitation Act by inaction and conduct undertaken with deliberate indifference to Updike's legitimate needs as a deaf individual." The case remains pending on remand. See: *Updike v. Multnomah County*, 870 F.3d 939 (9th Cir. 2017), petition for cert. filed.

3,100 Companies Invested in Mass Criminalization

180424 PLN Article

A new report from the Urban Justice Center's Corrections Accountability Project identifies more than 3,100 companies that earn revenue via contracts with the prison industrial complex in the United States. The companies span 12 sectors, from construction to healthcare to telecom, and per the report, they all-knowingly or unknowingly-service a system that disproportionately incarcerates Black, Latinx and Native people.

"With this report we seek to convey the enormity of the prison industrial complex and shed light on its diverse corporate participants, taking our understanding of the commercialization of justice beyond just private prison giants, CoreCivic and The GEO Group. There are thousands of publicly-traded, private equity-owned, and privately-held companies that generate profits through the criminal legal system on the backs of those it targets: low-income and minority communities," Corrections Accountability Project director Bianca Tylek said in an emailed statement. "Until today, these companies have operated largely behind closed doors, often intentionally masking their involvement. Yet given the reach of the criminal legal system today, still others, have found themselves unintentionally wrapped up in the prison industrial complex. Nevertheless, both present an engagement

opportunity for advocates fighting to shut down the industry and shift the economy that have been built around mass incarceration."

Kansas Registers Drug Offenders

180317 PLN Article

Back when meth was the drug war's primary target, several states created registries for people convicted of making or selling the drug. Kansas went further than anyone else. There, anyone convicted of manufacturing, distributing, or possessing with intent to distribute any illegal recreational drugs other than cannabis are required to register for a minimum of 15 years-and unlike other states, the Kansas registry includes their picture. (It formerly included their addresses, but that was later removed due to fear of retaliation.)

More than 4,500 Kansans are now registered drug offenders, and many of them face surveillance, public isolation, and other unnecessary hardships as a result.

Kansas lawmakers are now reviewing a bill that would eliminate drug offenders from the criminal registry. "It is a drain on resources with no science, studies, or data to justify it," defense lawyer Jennifer Roth said at a hearing.

While they are on the registry, those convicted of drug charges are required to appear at the county sheriff's office four times a year. They must also make an appearance any time they move, get a new job, buy a vehicle, change emails, or get a tattoo. Each quarterly visit costs offenders \$20, and failing to register-an offense that includes failing to make any one of those appearances-can lead to prison sentences.

The consequences can be crushing. The formerly incarcerated already have an [extremely difficult time obtaining a job](#). And many people examining the registry fail to distinguish between drug charges and sex-related offenses, leading to further problems. The public is hostile to sex criminals, and people are quick to assume the worst about persons registered (though many sex offenders on the registry [may not deserve](#) to be there either).

This harsh public treatment leads to social isolation, and critics of the registries suggest such isolation makes recidivism more rather than less likely. Similarly, while there [isn't much evidence](#) that registries actually prevent crime, several studies [suggest](#) that felons without foreseeable job prospects are more likely become repeat offenders.

"The problem with these registries is that we're creating a class of untouchables within our society who cannot rent apartments or secure employment," George Washington University law professor Jonathan Turley [told](#) *Prison Legal News* during the original push to add drug offenders to the registries. "When you diminish the likelihood that ex-felons can live and work in society, you increase the chances that they will return to criminal behavior."

In light of such problems, [other states](#) have rolled back their registering requirements. Hopefully Kansas will join them soon.

**REMEMBER: First they came for the sex offenders,
and I remained silent --- ASK WHO IS NEXT**

Advocates Push City Council to End Profits From Prisons

180516 PLN No Profits From Prison

A group of 30 criminal justice activist organizations are urging the Brooklyn City Council to yank all programs that make money off of people in jail. Currently, the city collects cash from fees tied to inmate telephone calls, commissary buys, and vending machine purchases. "The city should be taking action to alleviate the economic impacts of incarceration, not exacerbate them through predatory profit-making arrangements with private contractors," the letter says. It is signed by groups like the Legal Aid Society, Brooklyn Defender Services, The Fortune Society and Urban Justice Center.

The missive says the upcoming budget "projects millions in revenues to be generated through exorbitant fees to people in jail and their families." That setup encourages the city to put people, primarily minorities, in jail, the group contends. "These policies act as a tax that disproportionately affect people of color and are a prime example of the wealth extraction from targeted communities that drives economic inequality - one of the most serious problems facing our city today," the note explains.

For-Profit Prisons - Biggest Lobby Not Discussed

180313 PLN Article

Several industries have become notorious for the millions they spend on influencing legislation and getting friendly candidates into office: Big Oil, Big Pharma and the gun lobby among them. But one has managed to quickly build influence with comparatively little scrutiny: Private prisons. The two largest for-profit prison companies in the United States - GEO and Corrections Corporation of America - and their associates have funneled more than \$10 million to candidates since 1989 and have spent nearly \$25 million on lobbying efforts. Meanwhile, these private companies have seen their revenue and market share soar. They now rake in a combined \$3.3 billion in annual revenue and the private federal prison population more than doubled between 2000 and 2010, according to a report by the Justice Policy Institute. Private companies house nearly half of the nation's immigrant detainees, compared to about 25 percent a decade ago, a Huffington Post report found. In total, there are now about 130 private prisons in the country with about 157,000 beds.

Marco Rubio is one of the best examples of the private prison industry's growing political influence, a connection that deserves far more attention now that he's officially launched a presidential bid. The U.S. senator has a history of close ties to the nation's second-largest for-profit prison company, GEO Group, stretching back to his days as speaker of the Florida House of Representatives. While Rubio was leading the House, GEO was awarded a state government contract for a \$110 million prison soon after Rubio hired an economic consultant who had been a trustee for a GEO real estate trust. Over his career, Rubio has received nearly \$40,000 in campaign donations from GEO, making him the Senate's top career

recipient of contributions from the company. (Rubio's office did not respond to requests for comment.)

The Justice Policy Institute identified the private-prison industry's three-pronged approach to increase profits through political influence: lobbying, direct campaign contributions, and building relationships and networks. On its website, CCA states that the company doesn't lobby on policies that affect "the basis for or duration of an individual's incarceration or detention." Still, several reports have documented instances when private-prison companies have indirectly supported policies that put more Americans and immigrants behind bars - such as California's three-strikes rule and Arizona's highly controversial anti-illegal immigration law - by donating to politicians who support them, attending meetings with officials who back them, and lobbying for funding for Immigration and Customs Enforcement. Showing just how important these policies are to the private prison industry, both GEO Group and Corrections Corporation of America have warned shareholders that changes in these policies would hurt their bottom lines.

Electronic Monitors: Companies Lock Us in Our Homes

180424 PLN Article

Despite the law-and-order offensive of President Donald Trump and Attorney General Jeff Sessions, the momentum for decarceration and ending cash bail continues to grow. This is cause for optimism. However, decarceration may not ultimately mean freedom. In many cases, welcoming arms are waiting for those coming out of prison gates, ready to strap plastic GPS shackles around their ankles. The number of electronic monitoring (EM) devices in the United States has more than doubled in the past decade. This means decarceration may presage a massive shift of the costs of incarceration onto families and communities, and the transformation of the nation's correctional system from public control to private companies. Activist Rebecca Brown, the director of Reentry Solutions Group and a keen analyst of monitoring, told *In These Times*, "Rather than advancing a more equitable and effective criminal justice system, electronic monitoring's enormous and unchecked capacities transform entire communities into open-air jails, intentionally depriving a whole class of people of liberty and privacy even as its efficacy, necessity and appropriateness go entirely unchallenged." Welcome to the era of incarceration and carceral conglomerates.

Let's track that little canary with a couple of examples. State authorities in Ohio are implementing Targeted Community Alternatives to Prison (T-CAP) to reduce prison populations. But these people will not be "free." T-Cap will force people with low-level felonies to do their time in county jails or be fitted with EM devices. In other states, the use of EM during parole is mushrooming. In New York, according to a Freedom of Information Act query, the number of electronically monitored people on parole has increased more than 2.5 times since 2010.

The law-and-order agenda of the Trump-Sessions regime also has EM spinoffs, with overflow populations from immigrant detention centers increasingly being placed on what Spanish-speakers refer to as the "grillete" (shackle). A parallel process has occurred in juvenile justice where, according to a 2017 report by UC Berkeley's Samuelson Law Clinic and East Bay Community Law Center, "one of the most significant changes in the juvenile justice system in recent decades has been the proliferation of electronic monitoring of youth."

Nationwide Prison Strike

In Newsletter No. 29 NV-CURE published an article on a Nationwide Prison Strike to commence on August 21, 2018, and to end on September 9, 2018, to protest conditions in prison across the nation. We did not express an opinion on the strike. We discussed this matter at our last meeting and, after much discuss, we decided that we support the constructive changes the prison strikers are trying to accomplish.

NV-CURE supports any constructive changes to the criminal justice system, including, but not limited to, abolishing that portion of the 13th Amendment permitting prisoners to be treated as slaves, restoring the right to vote to all persons convicted of crimes, allowing prisoners to vote in all relevant elections, providing medical care at government expense to all prisoners through a system similar to Medicare, paying prisoners a minimum wage for any and all work performed, elimination of all costs to prisoners for incarceration costs that must be borne by the government for all incarcerated persons (no medical charges, room or board charges, etc), absolutely no profits on prisoner telephone calls, canteen or package purchases, absolutely no profits for private prisons or medical care providers for housing and treating prisoners, an end to the death penalty, an end to all life sentences, an end to all mandatory prison terms, and an end to all discretionary paroles. Prisoners refusing to do any type of work without these conditions being meet by prison administrators must be permitted to do any type of work until those conditions are met.

NV-CURE supports all constructive changes to the criminal justice system and supports the right of all persons to protest injustices by refusing to do any type of work, without fear of any type of disciplinary consequences, until the objectionable conditions have been changed to their satisfaction.

California Prison Guards Get Huge Pay Hike

180605 PLN Article

Only Texas employs more prison guards than California, but in Texas, taxpayers get more for their money. The annual salary for a correctional officer or jailer in Texas, according to the U.S. Bureau of Labor Statistics, averaged out to \$41,420 as of May 2017. In California, it was \$71,630.

The BLS says there were 48,600 Texans employed in this category of work, and 36,730 Californians. About 27,000 of those West Coast prison guards are represented by the

California Correctional Peace Officers Association. For them, the average base wage in 2015 was \$76,000.

No state pays its prison guards more than California. So, taxpayers may wonder why Gov. Jerry Brown has just negotiated a new one-year contract with the CCPOA that provides an unusually generous 5 percent raise.

Why? The answer, most likely, is in the campaign finance reports on file with the secretary of state's office. The total amount contributed by the CCPOA to political campaign committees since 2001 is over \$71.8 million.

Corruption Among N.C. Prison Guards in N. C.

180423 PLN Article

A "dirty staff gang" of corrupt employees in North Carolina's prison system is circumventing security measures by smuggling contraband that creates dangers not only for prisoners and staff members, but also for people in the community who have been the victims of criminal plots.

North Carolina has about 8,000 prison guards, of whom 1,800 to 2,000 are new hires in any given year. The high turnover rate is driven at least in part by low wages. The national average pay for a guard is \$47,000, but thanks to the rural locations of most North Carolina prisons, guards average \$32,000 annually at minimum-security facilities and \$35,000 at maximum-security facilities.

"These officers are broke," said Troy Person, who served 20 years on multiple counts of forgery at the Scotland Correctional Institution (SCI). "That's why there are so many cell phones in prison." Person said he paid two guards to smuggle him cell phones, liquor, condoms, pornography and marijuana, all of which he sold to other prisoners. The contraband trade can be lucrative inside prisons, where a pound of marijuana is worth more than \$9,000 and a smartphone can go for \$700.

Former SCI prisoner Timothy Ray Jones started his prison drug ring with an inexpensive flip phone he bought for \$150. He enlisted two female guards, and they developed a secret code to ensure the drugs they smuggled would not be detected. For every pound of marijuana, the two guards brought in, Jones paid them each \$700, twice a month for two years - enough to provide each guard with an extra \$17,000 annually.

"In prison," Jones said, "money talks."

Donald Who? Reform Goes Forward Despite His Idiocy

*By: Joseph Margulies, Apr 2, 2018, Justica, Ccriminal Law
180403 PLN ARTICAL*

Recently, the president called for the execution of drug dealers. This is idiotic, of course, both as a matter of law and policy. But no one who has been following these things should have been particularly surprised. The president says all sorts of stupid things, and since his election, he and his attorney general have done their level best to convince us that we are in the midst of a new crime wave. Be afraid. Be very afraid. And to meet the fear they would have us feel, they have tried to drum up support for yet another war on crime. Apparently, the

president believes that making America great involves sending a hell of a lot more people to prison (and Death Row) for a hell of a long time.

Because he has been so transparent about his love for all things carceral, and because he is so exceedingly popular in so many places, many people—*myself included*—wondered whether his rhetoric would derail the movement for criminal justice reform that has been gathering steam since the early years of the 21st century. I watched the state of play over the last fourteen months or so, but decided it was time to take a deeper dive.

So far as I know, this is first attempt to determine whether the president has mattered to criminal justice reform. To my relief, the answer seems to be no. He's irrelevant. Criminal justice reform at the state level is no worse—though no better—than it was before his election. It has more or less the same shape and substance as it has for the past fifteen years. Here's a brief rundown:

By far the most prominent aspect of the criminal justice reform movement has been a shift in the response to at least some illegal drug use, particularly marijuana and opioids. As for the former, in January 2018, the Drug Policy Alliance assessed whether reform at the state level had been blunted by the rhetoric of the president and his attorney general. They concluded "*the sky hasn't fallen*. It's actually going very well." Likewise, the national trend toward viewing opioid addiction as a public health challenge rather than a crime has continued without interruption.

Another major part of the criminal justice reform movement has been a drive to eliminate the collateral consequences of a criminal conviction, including restrictions that make it more difficult for those with a conviction to get a job. Eight states passed legislation in 2017 or 2018 that eased some of these burdens, continuing a long-term, nationwide trend. Six of these states—Arizona, Indiana, Kentucky, Nevada, Pennsylvania, and Utah—voted for the president in 2016 (California and Washington are the other two). Another four states—Arkansas, Louisiana, Maryland, and North Dakota—adopted legislation that allows former drug felons to receive federal food stamps. Three of these four voted for the president in 2016.

Relatedly, a number of states have over the past two decades taken important steps to restore voting rights to at least some former convicts. The National Council on State Legislatures keeps track of these reforms, and reports that in 2017, three states passed legislation that continued this trend. Two of these states—Alabama and Wyoming—voted for the president in 2016, and Wyoming's legislature automatically restored voting rights to all non-violent felons. At this writing, similarly favorable legislation, as well as a proposed amendment to the state constitution in Illinois, is pending in a number of other states and the District of Columbia.

In 2017, Louisiana, which has the highest incarceration rate in the country, became the 33rd state to adopt a comprehensive state-wide criminal justice legislative reform package. This reform took place under the "Justice

Reinvestment Initiative" that I have written about before. Four other states, including Arkansas, Hawaii, Michigan, and Montana—also passed progressive criminal justice legislation. Three of the four voted for the president.

New York and North Carolina, the last two states that automatically prosecuted 16- and 17-year olds as adults, passed legislation that raised the age of adult jurisdiction in the great majority of cases, meaning that far more juveniles in both states would stay out of adult court.

All of this is in addition to isolated but noteworthy successes in particular locations, like the welcome move toward bail reform in several jurisdictions and the election of progressive prosecutors in places like Philadelphia. And of course, the nationwide network of advocates, activists, and organizations campaigning for reform continues to grow and become more vocal, more organized, and more effective. For them, the president is a call to arms, and they rightly take him as a challenge to be confronted with great vigor, which helps sustain the movement for reform at the national, state, and local levels.

Note that in recounting this, I do not mean to exaggerate the success of the criminal justice reform movement. In general, I think it is timid and tepid and that it has accomplished relatively little of substance, as I have indicated many times before. On the other hand, it is better to take even a small step forward than to stand still or move backward. And my point is simply that, as far as I can ascertain, the president has had no effect on criminal justice reform at the state level. Whatever other dangers he may pose to democracy in this country, and there are many, he seems to have had almost no impact on criminal justice reform, and for that, we should count our blessings.

In making this observation, I find myself in excellent company. Along with the VERA Institute, the Brennan Center for Justice, and a small handful of other organizations, the Sentencing Project, under the long-term leadership of Executive Director Marc Mauer, is one of the most well-known and widely respected criminal justice organizations in the country. Last week, the Project released its 2017 annual report, which laments the president's ill-advised return to the law and order rhetoric of the Reagan Era. But in his letter introducing the report, Mauer notes "that criminal justice on a day-to-day basis largely plays out at the state and local level," and that the shift at the national level "does not yet appear to be delivering significant setbacks to the momentum for reform of recent years." The annual report does not discuss as many aspects of criminal justice reform as I do in this article and does not purport to account for the state of play, but we read the evidence the same way: so far, reform proceeds apace.

Like the Sentencing Project, I mean to be exceedingly cautious in my observations. To begin with, as Mauer notes, Trumpism does not yet appear to have blunted the movement for reform. Everyone should understand the warning implicit in this language. In addition, both of us base our assessments on what we can observe. But some of the most significant shifts may be taking place at a level that is not yet detectable. One of the most important players in criminal justice policy nationwide

is the Department of Justice, which since the Johnson Administration has disbursed billions of dollars to shape state and local criminal justice policies and strategies. It is anti-federalism at work. So far as I know, no one has yet carefully compared pre- and post-election funding priorities at DOJ. That comparison, if it were undertaken, will give us some insight into longer term objectives of the Trump Administration, and tell us a great deal about what will likely happen at the state and local levels down the road. Finally, I stress that my observations are limited to criminal justice. The danger to other aspects of national life are simply not part of this discussion.

So why has reform gone forward when it seems so antithetical to the messages from the president and his attorney general? What does this continuity tell us about the nature of criminal justice in the United States today? The simplest answer is also the least satisfying: federalism matters. As Mauer notes, crime and criminal justice are local affairs, and states are perfectly free to ignore presidential prattle. But this merely repeats the question in another form. What we want to know is *why* the president's rhetoric has had such limited appeal at the state and local level.

Here, the answers are necessarily tentative, but several factors are likely at play. First, given his record-setting unpopularity, there are probably some jurisdictions and state houses that interpret the president's bombast as a call to do precisely the opposite. In some places, to be seen as siding with the president on any issue, including criminal justice, may be a political liability, especially in our hyper-partisan climate.

Second, there is the reality on the ground. Despite the president's typically ill-informed demagoguery, crime rates continue to fall nationwide and are now at historically low levels. In 2015, overall crime rates were already less than half the rates in 1991, and both violent and property crimes continued their downward trend during 2016 and the first six months of 2017, which is the most recent data we have. This president has a notoriously cavalier regard for the facts, and never so much as when he whines about a nationwide crime wave.

The third explanation is perhaps the most important. As I have described before, criminal justice reform has done almost nothing to change the fundamental philosophy of the tough-on-crime era. Though a growing number of activists and advocates are campaigning for an alternative vision, including a public health model, in most jurisdictions, criminal justice reform does not take a different approach to crime and justice so much as it takes the *same* approach to a slightly different fraction of the criminal justice population. In that respect, the president has not derailed criminal justice reform because it continues to endorse his basic argument: some people are intrinsically bad and need to be policed and punished severely. The president and the reform movement simply disagree about who those people might be.

There may be other factors at work, and in any case, it is probably too early to make any definitive assessments. The state of play may yet change and criminal justice reform may

come to a crashing halt. But for now, I take some comfort at the president's colossal irrelevance.

9th Cir on Medical Malpractice

In a decision filed on May 1, 2018, in Gordon v. County of Orange, the 9th Circuit extended its decision in Castro (applying Kingsley) to rule that 14th amendment medical care claims are analyzed solely on an objective standard:

Accordingly, we hold that claims for violations of the right to adequate medical care "brought by pretrial detainees against individual defendants under the Fourteenth Amendment" must be evaluated under an objective deliberate indifference standard. Castro, 833 F.3d at 1070. Based thereon, the elements of a pretrial detainee's medical care claim against an individual defendant under the due process clause of the Fourteenth Amendment are: (i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (ii) those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of the defendant's conduct obvious; and (iv) by not taking such measures, the defendant caused the plaintiff's injuries. "With respect to the third element, the defendant's conduct must be objectively unreasonable, a test that will necessarily 'turn[] on the facts and circumstances of each particular case.'" Id. at 1071 (quoting Kingsley, 135 S. Ct. at 2473; Graham v. Connor, 490 U.S. 386, 396 (1989)). The "'mere lack of due care by a state official' does not deprive an individual of life, liberty, or property under the Fourteenth Amendment." Id. (quoting Daniels, 474 U.S. at 330-31). Thus, the plaintiff must "prove more than negligence but less than subjective intent—something akin to reckless disregard." Id.

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Please provide NV-CURE with suggestions for articles and information you may want included in our Newsletter. We are interested in bringing you information on events and issues related to the prison and parole systems. We will attempt to gather the facts on issues of concern and write articles that may be of interest to all.

If you want to write an article for publication, write it and send to NV-CURE and we may edit and publish it.

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NV-CURE is looking for Sustaining Contributors who want to advertise their businesses and/or corporations in our IB Newsletter. We currently publish the Newsletter bi-monthly. Every two (2) months our Newsletter goes out to almost eight hundred prisoners and 1200 people and organizations in the community. Our primary costs are printing and mailing. It currently costs NV-CURE over \$820.00 to mail our Newsletter to Prisoners – the very people who need our help. NV-CURE would like to increase our mailing to over 1000 prisoners. Our costs would increase accordingly. NV-CURE, a tax exempt non-profit organization, and needs at least twenty (20) Sustaining Contributors to accomplish our goals. With twenty Sustaining Contributors, contributing \$500.00 per year, which is tax exempt, we can reach our goal. Is your organization interested in becoming a NV-CURE Sustaining Contributor? Visit our Website, nevadacure.org, and see what we do and call our office to sign up. Thank you.

SUSTAINING CONTRIBUTORS

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